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THE  
WESTMINSTER REVIEW.

VOLUME VI.

MAY—JULY, 1826.



PUBLISHED BY  
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LONDON.

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THE  
WESTMINSTER REVIEW.

JULY, 1826.

ART. I.—*Essays on the Formation and Publication of Opinions, and other Subjects.* The second Edition, revised and enlarged. 8vo. Hunter. London.

IT gives us no ordinary pleasure to find that a second edition has been called for of this very useful volume. It is one of the signs of the times.

One of the most important of the laws of thought, with some of the momentous practical consequences, to which the state of opinions respecting it has been instrumental in giving birth, is the first and principal topic of the work, of which the design is excellent, and the execution more than creditable. A popular manner has been studied by the writer, and with success. The train of thought is simple, without being superficial, and is followed at once with ease and with interest.

Taking belief to signify the state of mind, in regard to propositions, considered as true; and matters of fact, past, present, or future, considered as real, the author proceeds to inquire, whether the mind, when belief is generated in it, is or is not to be considered voluntary.

Generally speaking, belief is the result of evidence. Where there is no evidence, there is no belief. Where there is evidence, there is belief. Evidence admits of degrees; it may be stronger or weaker. In like manner, belief admits of degrees. Belief may be stronger or weaker; and its strength or weakness corresponds to the strength or weakness of the evidence. It is not meant that the same evidence appears always of equal strength to every man: that is very far from being the case; it is far from appearing always of the same strength to the same man. It is meant, however, that, whatever the strength which evidence at any time appears to a man to bear, such at that time is the degree of his belief. The proof is indisputable, because

the view which the mind takes of evidence, and its belief, are only two names for one and the same thing. The feeling of the force of evidence, and belief, are not two mental states; they are one and the same state. A man regards a piece of evidence as convincing: this is but another phrase for saying he is convinced.

In the word evidence, there is an equivocation to which it is necessary to attend, in order to have any chance for clear ideas on the subject.

Sometimes the word evidence means what is calculated to be evidence, whether it is by any mind taken into view as such or not. At other times, we call a thing evidence, only when it is taken into view as such by some particular mind. Many things there are, which would be evidence to your mind, if they were present to it, in a certain way. Not being present to it, they are not evidence to you, how much soever calculated in their own nature to be so, or however strongly they may be evidence to other minds to which they are present in that appropriate mode. Nothing is evidence to any mind till it is taken into view by that mind, along with the point, whatever it is, of which it is evidence. A thing may be calculated to be evidence, without being so, either to you, or to any of your fellow creatures. Nothing is evidence to any man but what is brought home to him. Strictly speaking, therefore, nothing is evidence, but what is regarded and taken into account as such. That which is only calculated to be evidence, is not evidence. It becomes evidence only, when it is surveyed by a mind by which its evidentiary virtue is perceived. That, however, which is only thus calculated to become evidence, is very often called evidence. And, thus, two things, which it is of great importance to distinguish, are confounded under one and the same name; that which is evidence to a man, actually present to his mind, and producing its appropriate effect; and that which is not present to his mind, nor producing any effect. What is evidence to your mind now, because it is present to it, was not evidence to it yesterday, when it had never been present to it. The same thing exists therefore in two states relative to your mind, the state of evidence, and the state not of evidence. It would be very useful to have names to distinguish these two states. In the first it may be called evidence, in the second, it is only matter fit to become evidence. If a short term could be found, to supply the place of this many-worded name, "matter fit to become evidence", it would be very convenient. Our language, which, unhappily, has no future participles, makes it very difficult to frame a good name. Perhaps, as we have made

credential from credence, to answer a very good purpose, namely, to express what is calculated to give credence, so we might use the word evidential, to express a thing calculated to become evidence. Thus we should have two convenient words, evidence, and evidentials; the one to express the thing when considered as evidence, the other to express its character when considered as only fit to become evidence.

We also want a term to express an object, which has not yet become an object of either belief, or disbelief; but may become an object of the one or the other. When believed, it is called an object of belief, when disbelieved an object of disbelief. But what is it to be called, while it is yet an object of neither; and while it is unknown, of which it is fitted to be an object? In that case, it is an object of scepticism—scepticism meaning literally suspense of judgment, till evidence is obtained. And, if scepticism had not a bad meaning attached to it, an object of scepticism would have been a very proper name for the object in question. Let us in this sense suppose an object of scepticism, a mathematical proposition, for instance: by what process does it become an object of belief, or of disbelief? Through the medium of evidentials. Evidentials are not evidence, till they do evidence; that is, effect belief. A demonstration, before it is known, is an evidential; when it becomes known, it is evidence, and the feeling of the evidence is belief.

There is in evidentials, such a thing as a power of becoming evidence; that is of producing belief in the mind that duly appreciates their evidentiary nature.

If there is not this power in evidentials, there is no such thing as truth; for truth is that which there is reason for believing. The reason for believing any thing, is the evidence of it. The reason for calling any thing truth, is because the evidence for believing it is so strong, that it cannot be doubted: that is, the mind cannot forbear believing it, when the evidentials of it are present to the mind.

I believe that the sun exists. That proposition I call a truth. Why? Because when I look at the sun, I have a sensation, which, as an evidential of the sun's existence, renders it impossible for me not to believe his existence.

That the three angles of a rectilineal triangle are equal to two right angles, I call a truth. The reason here also is, that, when I evolve the demonstration, it yields me evidence of the proposition, in other words, produces belief; nor is it possible for me to carry my mind along the demonstration, and resist the belief.

If there is such a thing then, as truth in the world, there is



such a thing as irresistible evidence. But where evidence is irresistible, of course the belief is not voluntary, it is not in the power of the mind to receive, or not to receive it.

That there is in the world truth, certain truth, it is a new thing for the advocates of religion to draw into doubt. This was wont to be their accusation against the sceptics. It is the more to be wondered at, that the rev. Dr. Wardlaw, a clergyman of Glasgow, should have thought it necessary to arraign Mr. Brougham, for declaring, in his "Inaugural Discourse," that when evidence is present to the human mind, belief is not a voluntary, but a necessary consequence.

The rev. Dr. Wardlaw does, in this case, what is so very apt to be done by a man who does not like a certain proposition, and yet sees danger in disavowing it: he both attacks and maintains the doctrine.

First, let us hear what he says in affirmation of it. "I am far," such are his words, "from intending to question the soundness of the axiom, that belief must necessarily correspond with the perception of evidence, it being in the nature of the thing impossible, that the mind should believe otherwise than as evidence is, or is not discerned. It is quite entitled to the designation of an axiom, being a self-evident and indisputable truth." No admission can be more full and unequivocal.

What, then, is the quarrel he has with Mr. Brougham; this, and nothing but this, being the truth which Mr. Brougham has promulgated? "If it be true," says Dr. Wardlaw, "that for his belief, whatever it may be, a man is no more the subject of praise or blame, than he is for a light or a dark complexion, or for the dimensions of his corporeal frame; then it follows, not merely that man should not account to man for his belief, but also, and with equal certainty, that man has no account to render for his belief to God. . . . We dare not hesitate to say that, between this sentiment and the most explicit statements and uniform assumptions of the Bible, there is a fearful contrariety. Our orator and the inspired penman are quite at issue."

But to us it appears, that the inspired penmen are not more at issue with the orator, than they are with the divine. The divine says, "It is quite impossible that the mind should believe otherwise than as evidence is, or is not discerned." Then a man is not responsible for his belief, assuredly; for it does not depend on him, but on the evidence.

What, then, does the divine proceed to prove? That a man is responsible for his belief? No; but for a very different thing; for his mode of dealing with evidence.

It is a very mischievous proceeding, to confound these two

things; and attach, as the reverend author does, to the one, the consequences which belong to the other. From this confusion, the spirit of prosecution derives its principal means of accomplishing its nefarious ends.

For what purpose does the reverend doctor, as if in averting some dreadful evil, put forth all his strength to establish a proposition, which no one in the world ever called in question; that a man may deal fairly, or unfairly with evidence, and may, in dealing unfairly with it, contract various degrees of guilt, from the lowest to the highest, perhaps, which can be imputed to a human being. Surely he does not mean to say, that Mr. Brougham disputes that proposition. Does not Mr. Brougham use the word prejudice, like other men? As often as he does so, he evinces his belief, that men deal unfairly as well as fairly with evidence; and thereby contract guilt, as far as the want of regard to truth implies it.

The quality, then, of the line of conduct pursued on this occasion, is as follows. The odium which would be justly due to any attempt to deny or explain away the criminality which may be involved in dealing unequally, negligently, or dishonestly with evidence, the reverend author endeavours to excite in the highest possible degree. Having done his best to excite this odium, he so frames his language, as to attach it to the proposition maintained by Mr. Brougham. The proposition maintained by Mr. Brougham, is a proposition undoubtedly true, as is affirmed by the reverend author himself, and it is a proposition of the highest possible importance, as all the world must allow. Yet the reverend author does his best to attach odium to this great and salutary truth, and to the man who lent the aid of his powerful name to its dissemination.

We are perfectly satisfied that Dr. Wardlaw has thus deeply sinned in ignorance, and if he had not totally mistaken the nature of his act, would have been one of the last of men to have adopted so reprehensible a proceeding. No declaration against persecution can be more clear and comprehensive than his. "It is a truth," he says, and says honourably to himself, and usefully to the world, "that men *ought* no longer to be led, and it would be a joyful truth, if truth it were, that they are *resolved* no longer to be led, blindfold in ignorance. It is a truth, that the principle which leads men to judge and treat each other, not according to the intrinsic merit of their actions, but according to the accidental and involuntary coincidence of their opinions, is a vile principle. It is a truth that man should not render account to man for his belief. And, in as far as this is meant to express the grand principle of universal

toleration, there is no length to which I would not cheerfully go along with its eloquent and powerful advocate; the very word, *toleration*, seeing a right to tolerate, supposes the existence of a corresponding right to restrain and coerce, being a term which, in such an application of it, no language ought to retain. Men should be as free to think, as they are free to breathe. 'I make no exceptions. Let truth defend herself; and defend herself by her own legitimate means. She is well able to do so. Nor does she stand in need of any auxiliary methods, beyond those of fair argument and rational persuasion. Give her an open field, and the free use of her weapons, and she will stand her ground. Legal restraint and suppression have invariably had the effect of giving tenfold prevalence to the dreaded error. And measures of coercion, whilst they have made hypocrites by thousands, have never made, and never can make, one genuine convert to her cause.'

A man capable of thus nobly expressing himself, respecting freedom of thought, could not have been betrayed into the exceptionable mode of commenting, which he has thought it his duty to employ, on the language of Mr. Brougham, respecting the great law of belief, had he not, under the influence of a bad habit, which a bad education renders most extensively and most unhappily prevalent, overlooked and neglected the distinction between the impression which the mind receives from evidence, such as it is presented, and the mental process which is subservient to the presenting of it.

The importance of the distinction, thus fatally, and thus frequently overlooked, the consequences attached to its observance, and its non-observance, will amply justify some pains bestowed upon the illustration of it.

First of all, we think it necessary to let Dr. Wardlaw see the opinion entertained by other divines, of the greatest eminence, as well as by philosophers, respecting the impression derived from evidence. In other words, the law of the great mental phenomenon, belief.

We cannot adduce a name of greater authority, than that of the celebrated Dr. Clarke, a man, uniting, in his own person, some of the highest attributes, both of a divine, and a philosopher. The following are two out of many passages, which his voluminous writings afford.

'The eye, when open, sees the object necessarily, because it is passive in so doing. The understanding likewise, when open, perceives the truth of a speculative proposition, necessarily, because the understanding also is passive in so doing. . . . Neither God nor man can avoid seeing that to be true, which they see is true; or judging that to be fit and



reasonable, which they see is fit and reasonable.'—Clarke, *Answer to the First Letter from a Gentleman at Cambridge*.

'Without all dispute, perception of ideas is no action at all. . . . Seeing a thing to be true or false is not an action, nor has any thing to do with the will. . . . Being unable to refuse our assent to what is evidently true, is not an action, but a perception.'—Clarke, *Remarks upon a Book, entitled A Philosophical Inquiry concerning Human Liberty*.

In the following passages, we have the sentiments of the great Chillingworth :—

'Perhaps you mean such points of faith, as the person to whom they are proposed understands sufficiently to be truths revealed by God. But how, then, can he possibly choose but believe them? Or how is it not an apparent contradiction, that a man should disbelieve what himself understands to be a truth; or any Christian what he understands or but believes to be testified by God? This indeed is impossible.'—Chillingworth, *Religion of Protestants: The Answer to the Preface*.

'If men do their best endeavour to free themselves from all error, and yet fail of it through human frailty, so well am I persuaded of the goodness of God, that if in me alone should meet a confluence of all such errors of all the Protestants in the world, I should not be so much afraid of them all, as I should be to ask pardon for them.'—*Id. Ib.*

'He that would question, whether knowing a thing, and doubting of it; much more, whether knowing it to be true, and believing it to be false, may stand together, deserves, without question, no other answer but laughter. Now, if error and knowledge cannot consist, then error and ignorance must be inseparable. Him that does err, indeed, you can no more conceive without ignorance than long without quantity, virtuous without quality, a man and not a living creature, to have gone ten miles, and not to have gone five, to speak sense and not to speak.'—*Id. Ib.*

The following is from another controversial divine of great eminence, who was not liable to the imputation of yielding any thing willingly to the sceptics :—

'The fundamental error in Mr. Bayle's argument seems to be this: He saw the essential differences of things; he found those differences the adequate object of the understanding; and so too hastily concluded them to be the adequate object of the will likewise. In this he was mistaken: they are, indeed, the adequate object of the understanding; because the understanding is passive in its perceptions; and, therefore, under the sole direction of those necessary differences. But the will is not passive in its determinations; for instance, that three are less than five, the understanding is necessitated to judge, but the will is not necessitated to chuse five before three.'—*Warburton, Div. Leg. B. I. Sect. 4.*

The proof that belief is not voluntary, is well put by Barrow, in his *First Sermon on Faith*; but the passage is too long for

insertion. Instead of it, take the following from a man of great name, and a tract of great merit:—

‘ This is the miserable condition of a convict heretic : the punishment which fell on him for expressing thoughts heretical, he must continue to endure for barely thinking ; which is a thing not in his own power, but depends on the evidence that appears to him.’—Bishop Hare, *Difficulties and Discouragements which attend the Study of the Scriptures in the way of private Judgment*.

After these specimens of the mode of thinking on this important subject, among rational theologians, we shall present but a few examples from the writings of philosophers, but those men of the highest name, and of no doubtful character in respect to their faith.

‘ That a man should afford his assent to that side on which the less probability appears to him, seems to me utterly impracticable, and as impossible as it is to believe the same thing probable and improbable at the same time.’—Locke, *Hum. Underst.* B. IV. Ch. 20. Sect. 15, 16.

‘ The mind of man is necessarily passive in two important manners, either as truth, real or apparent, demands its assent ; or, as falsehood, real or apparent, demands its dissent. It is in consequence of this passivity of the human mind, which I chuse to call passivity intellectual, that it becomes susceptible of discipline and institution, and thus finds itself adorned (according as it is cultivated) with the various tribes both of arts and sciences.’—Harris’ *Philos. Arrang.* Ch. XI.

This intellectual passivity is completely implied in one of the leading rules of Descartes’ Philosophy. “ *Credidi me,*” says he, “ *pro regula generali sumere posse, omne id quod dilucidé et distincté concipiebam verum esse.*” That conception is independent of the will, nobody has disputed. When any conceivable thing is presented to our conception, we can no more avoid conceiving it, than feeling pain when we are hurt.

There are two propositions, therefore, of the greatest certainty, and the greatest importance.

The first is this, that, as the mind is passive in belief, and the will, to use the words of Dr. Clarke, has nothing at all to do with it, neither merit nor demerit can ever be ascribed to belief, without the utmost confusion of ideas, and the risk of a deplorable train of the most immoral consequences.

The second is, that, as the mind is not passive in what it does relating to evidence, but has all the activity which is implied in its most voluntary exertions, merit or demerit may be justly ascribed to it.

On his mode of dealing with evidence, the good or evil application of the powers of the man, in other words, the greatest possible degree either of virtue or of vice, almost wholly depends.



The evidence of this proposition is short and conclusive. The outward acts of the man follow the inward acts of the will; the acts of the will follow the last determinations of the understanding; the determinations of the understanding follow the evidence present to the mind. The outward acts of the man, therefore, are all precisely such as the evidence which he has in his contemplation determines them to be.

Proper dealing with evidence consists of two things. First, the full collection of it: secondly, the equal reception of it.

With regard to the first, it is knowledge that is concerned. With regard to the second, it is fairness.

*Fulness of Collection.*—1. When a man gives himself no concern about evidence, he remains in voluntary ignorance. The degree of criminality which is involved in this, admits of all degrees, according to the nature of the case. Where it is of little importance, whether a man is or is not ignorant, very little blame can attach to his ignorance; where it would be impossible for him to acquire knowledge, however important, without neglecting it where it is still of greater importance, ignorance may deserve praise rather than blame. There are cases, however, in which voluntary ignorance implies the greatest wickedness; and a habit of voluntary ignorance, a habit, to a certain degree predominant, of indifference to evidence on important points, implies one of the most odious and disgusting states of intellectual and moral depravity.

*Equality of Reception.*—2. The criminality of unfairness, also, of course admits of degrees, according to the less or greater importance of the occasion on which it is incurred. The nature of the offence, in a general way, is sufficiently suggested by the name. It consists in leaning too much to one side. The opposite virtue consists in having no leaning to either side.

What is included in this? Two things are included. The first is, that we have no affection to the one side more than the other. The second is, that we bestow equal attention upon the evidence on both sides.

1. First, it is required that we have no affection to the one side more than the other. When there is an affection to the one side, a wish that the truth should be found on that side, a wish that it should not be found on the other, the weaker evidence on the favourite side produces more impression, than the stronger evidence on the other. By what delusive process of the mind this unhappy effect is produced, we shall by and by explore. At present we have to do with the certainty of the fact, and the extent of its influence.

A man must have looked abroad upon the world to very little

purpose, who has not observed how invariably every class of men have provided themselves with a set of opinions, grounded upon the feelings connected with their own interests, and not upon the evidentials of the case. The aristocratical class have opinions of a superiority inherent in themselves ; and inferiority inherent in the other classes. Wherein consists the pride of birth ? Whence arises the belief of something noble or ignoble in the blood, with all the practical feelings which result from it, and all the great consequences on life of which such feelings are the proximate cause ?

Whence are derived that remarkable class of opinions which are held by the white masters respecting their black slaves, in the West Indies, and in America ? The opinion of the utter degradation of the sable race ; the opinion of such a superiority in the fair race, that any the smallest tinge in the blood of an individual, whatever his worth, whatever even his riches, makes him unfit to associate with one whose veins contain the European liquid in elevating, ennobling purity ?

How difficult is it to find a man who does not over estimate the importance of the particular faculty in which he excels ? Look at the tribe of lawyers, the class who hire their tongues as readily to promote what is iniquitous and cruel, as what is just and humane. Their self-importance rises to the ridiculous : were it not for them, the race of men, they tell us, could hardly exist.

What need to speak of the exaggerations of the clergy, in magnifying their own importance, and that of the services which they render to the rest of men ?

How excessive the over-estimate which a fond mother commonly makes of the perfections of her child ! How blind to its defects ; how possessed with every point of its excellence !

Every body can adduce sufficient cases to show what sport the affections make with the understanding, and has observed how small the number of human creatures whose decisions can be depended upon whenever the affections interfere with the judgment.

Practically speaking, therefore, it is never safe to come to the examination of any question, without a strict examination of the affections. When we proceed to the investigation of any question, the first thing required is, a process of self-examination. Have I any affection on either side ? If not, I may safely proceed to ascertain and weigh the evidentials on both sides. If, however, the result of the self-examination is, that I have an affection on the one side, and none on the other, what must I do ? The proper plan would be, if it could be

done, to abolish the affection on that side ; and so come to the study of the question free from affection on either side ; or, if this could not be done, to raise, if it were possible, an equal affection on the other side. If it were the question for a fond mother to decide, whether her own or another child were the most amiable, it would be necessary, for a fair decision, either that she should divest herself, for the time, of her peculiar affection to the one side, or put on an equal affection for the other. This generally is impossible ; and then, there is only one other resource, that of making an allowance for the efficacy of the affection. As evidence which favours an affection, of equal force with evidence which makes against it, appears of greater force to the mind which is under the influence of the affection, it is necessary to such a mind, if it would be fair, to allow greater weight to the evidence opposite to the affection than it seems to have, and less to that which favours it. Thus, if it appears that the evidence which makes against the affection, and that which makes in its favour, are of equal force, we ought to conclude that the evidence which makes against it is the stronger. If a fond mother sees another child which she thinks equally admirable with her own, she may be very sure that it is better.

This virtue, of coming to the examination of all questions with an equality of affection, is what Mr. Locke recommends so strongly, under the name of Indifferency. “ We should keep,” he says, “ a perfect indifferency for all opinions, nor wish any of them true, or try to make them appear so ; but, being indifferent, receive and embrace them, according as evidence, and that alone, gives the attestation of truth.”

“ He that, by an indifferency for all but truth, suffers not his assent to go faster than his evidence, nor beyond it, will learn to examine, and examine fairly, instead of presuming.”

“ In any other way but this, all the world are born to orthodoxy. They imbibe at first the allowed opinions of their country and party, and so, never questioning their truth, not one of an hundred ever examines.”\*

2. In fair dealing with evidence, the next thing implied is, that equal evidence, on the different sides, should be treated as equal, that is, have equal effects. This second condition of fair dealing is substantially included in the first ; though for facilitating conception, we have thought it expedient to treat of them as two separate things.

It is only necessary to remind the reader of the share which attention has in the effect which is produced by evidence. If evidence is not attended to, it is the same thing as if it did not

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\* Locke, on the Conduct of the Understanding.



exist. If a very slight degree of attention, a degree just bordering upon no attention at all, is bestowed upon an article of evidence, the impression produced must be nearly the same as none at all. And if we reflect upon each degree of attention from the weakest to the strongest, we shall be easily convinced that the effect of the evidence must follow the degree of attention.

The point which we desire to illustrate becomes, therefore, exceedingly distinct. Suppose that there is a certain quantity of evidence on each of the two sides of a certain question; but that strong attention is bestowed upon the evidence on the one side, the slightest attention only allowed to that on the other, every body knows the consequence. Let the evidence which is slighted be to almost any degree the strongest in its own nature, that is, calculated, if equal attention were bestowed upon it, to produce the strongest effect, it will nevertheless produce the weakest; and the balance of proof will, contrary to all just appreciation, appear to be on the other side.

What that process of mind is, which is here denominated attention, and with which the effect to be produced by evidence has so great a concern, though familiar to every body, it is not easy to explain philosophically, without a greater degree of subtlety, than suits the cursory reading generally bestowed on a Review.

Every body is aware that the affections have a great share in it; and this it is which made us say, in commencing the elucidation of this second part of the fair dealing with evidence, that it was, to a great degree, involved in the first.

It is a common expression, that the affections rivet the attention. It is well known that an object greatly beloved cannot be excluded from the mind. It is said to engross the mind, to haunt the mind. Every thing serves to recall it. The mind loves to revolve it; takes it to pieces; looks at every part of it separately, and combines them anew.

To say that interest has a great share in fixing the attention upon the evidence on one side, rather than the other, is, in fact, but saying that the affections do so; since what are the affections, if not the feeling of a particular interest? yet it is necessary to mention interest separately, as in the sense in which it is here used, it is a very remarkable modification of affection. We are said to feel an interest in a thing, when it is a remote cause of our pains or pleasures. We say we have an affection for what is a proximate cause.

Now, then, what is the process, not difficult to conceive, however rarely practised, which takes place, when the mind makes an exertion, as we phrase it, to counteract those mis-

guiding influences ; and, in spite of them, bestows an equal attention on the evidence on both sides ? Of course it does so, because it has a motive. It loves truth, it loves fairness, and it makes to itself a greater interest in the pursuit of truth, and practice of fairness, than in any thing which it would gain by the violation of them. As a motive is nothing but another name for an interest, a name for an interest, connoting the view which at the instant is taken of it by the mind, it is easy to see what happens. When the mind bestows an equal attention upon the evidence on both sides of a question, by that victory over affection and interest, which is one of the noblest exertions of virtue, because it is the source from which almost every laudable action proceeds, it does so by creating to itself a counteracting interest ; the interest of truth and fairness. This is the tutelary principle. This is the safeguard of virtue. If a man loves truth and fairness more than he loves either side, he will inquire and judge virtuously. If he loves either side better than he loves truth and fairness, he is ready to decide dishonestly, whether he himself is aware of it, or not.

This analysis has, then, led us to something practical, in the most interesting sense of the word.

As virtue consists in the steadiness and constancy of righteous action, and as that facility and proneness on which steadiness and constancy depend, are the result of habit, so faithfulness in regard to evidence, that is, the faithful pursuit of full evidence, with equal affection to both sides of the question, and equal attention to the evidence on both, will only be steady and constant, when the habit is acquired.

Let us bestow a few reflections upon the two opposite habits, the habit of good behaviour towards evidence, and the habit of bad behaviour. Of bad behaviour, the first part is, negligence with regard to evidence ; feeling little concern about the grounds of one's opinions ; letting belief come into the mind, and establish itself there, more by accident than judgment ; taking up the opinions that are current, or fashionable, with hardly any knowledge of their evidence, or much concern whether they are founded on evidence or not.

This habit of forming opinions, and acting upon them without evidence, is one of the most immoral habits of the mind. Only observe what it imports. As our opinions are the fathers of our actions, to be indifferent about the evidence of our opinions is to be indifferent about the consequences of our actions. But the consequences of our actions are the good and evil of our fellow-creatures. The habit of the neglect of evidence, therefore, is the habit of disregarding the good and evil of our fellow-

creatures. It is the habit of hard-heartedness, and cruelty, on the largest scale, and rooted in the deepest part of the mind. This habit is the foundation of most of what is vicious and degraded in human character. The habit of disregarding the evidence of our opinions, with the habit necessarily involved, of disregarding the consequences to our fellow-creatures, of the actions founded upon those opinions, are the elements of a character, in which the general temptations to vice operate without any counteracting motive; and as such a man is essentially without virtue, so it must be by a rare concurrence of accidents, if he is not deep in vice.

Seeing the malignant nature of this habit, it is a melancholy reflection, that it is the general habit of mankind, and of none more than of our dear countrymen. How rare is it to meet with a man, who has almost ever concerned himself about evidence; who has not adopted opinions, as he has adopted words, solely because they were used by other people? This is a dreadful vice of education. One of the grand objects of education should be, to generate a constant and anxious concern about evidence; to accustom the mind to run immediately from the idea of the opinion to the idea of its evidence, and to feel dissatisfaction till it is known that the evidence has been all before the mind, and fairly weighed. When the case is directly the reverse, when the habit is almost universal, of stopping at the opinion, without going on to a thought of the evidence, without an association of any the smallest feeling of dissatisfaction with an opinion the evidence of which has not been explored, we may be perfectly sure that education in that country is in the wrong hands, and that it is nearly in its most deplorable state.

The effects are dreadful. How, but for the habit, almost general, of neglecting and disregarding evidence, could the progress of mankind in improvement be so very slow? How else could errors, of the grossest as well as most pernicious kind, be propagated, and the abominable actions which are grounded upon them, be repeated, from generation to generation? How could institutions, at variance with the interests of the community, which are a mockery of human nature, and act as a pestilential atmosphere upon the race, hold their endless existence, if the human mind was not ruined by the habit of adopting opinions, without evidence?

If such are the deplorable consequences of the vile habit of neglecting evidence, the consequences of the opposite habit, of being on the alert for evidence, of never yielding assent without having it, are of the most salutary kind. Strength and soundness of mind are so essentially connected with it, that they cannot



exist without it. How can there be strength or soundness of mind, without the habits on which they depend? Virtue of every kind springs readily from this soil, and can be planted in no other. The regard to evidence, as we have said before, implies regard to the good and evil of mankind. Regard to evidence, and the strength of mind, of which it is the foundation, necessarily lead to the discovery of error, and the discredit of institutions not useful but hurtful to mankind. What a debt of gratitude should we therefore owe to an education which would implant this habit; what detestation do we owe to an education which implants the opposite!

Such are the opposite habits, the habit of virtue, and the habit of vice, in regard to the search and collection of evidence. The habits of equal and partial affection come next for consideration.

On this subject it is not necessary we should bestow many words. All the benefit of having evidence is lost, if it comes into a mind prepared to make a bad use of it. Of course, all the evil consequences which attach to the negligence of evidence, attach to the habit of partial affection, and something more. The habit of attaching one's self to one side of a question, is a habit of misjudgment. This implies mental imbecility. The affection which is felt for one side of a question, is an affection grounded upon those narrow and personal considerations, which are called selfish, in the immoral and hateful sense of the word; because the interests of truth and fairness include every thing that is large and generous; the habit, therefore, of partial affection to one side of a question, is a habit of confirmed selfishness and immorality. By the habit of believing whatever a man wishes to believe, he becomes, in proportion to the strength of the habit, a bad neighbour, a bad trustee, a bad politician, a bad judge, a shameless advocate. A man whose intellect is always at the command of his sinister interest, is a man whose conscience is at the command of it.

The sphere in which this habit operates the most mischievously is that of the opinions favourable to the interests of the powerful classes of the community, and hostile to those of the community at large. Individuals of the powerful classes, like other individuals, feel attachment to their own side of every question, and when that propensity is not corrected by a good education, but confirmed into a habit, and even erected into a principle, by a bad education, as it is in this country, the consequences are, what we see, an utter incapacity, almost universal, among the individuals of whom the leading classes are composed, of fair reasoning on all the points wherein the

interests of the community are concerned. When to this is joined the habit, in the body of the people, of inattention to evidence, of taking opinions upon trust, and taking upon trust the opinions chiefly of those same leading classes, we see how naturally all the mischievous institutions in the world, and all the mischievous opinions which yield them support, derive their hateful durability from habits of misconduct in relation to evidence.

Having now shewn to Dr. Wardlaw, and to persons of his description, somewhat more clearly than they generally understand the matter, wherein consists the grand virtue of proper conduct towards evidence, and the grand vice of improper conduct, the master virtue, and master vice, of human nature, we have now to show, that, of all classes of men, the clergy are those who are the most deeply chargeable with offences against the virtue, most deeply plunged in the atrocities of the vice.

Let us first of all consider the nature of that constant endeavour of theirs, of which we have already taken some notice, to confound the attributes of belief, with those of the behaviour to evidence; to ascribe to mere belief, the praise or blame, which can alone be due to the mode of dealing with evidence.

Is not this to make a virtue of unfairness? To attach the idea of merit or demerit to belief, that is, of merit to believing one way, demerit to believing another, what is this, but to hold out a premium for partiality, for affection all on one side? This is not merely to offend against the master virtue of right behaviour towards evidence, it is to hire and purchase offences against it.

Why do the clergy follow this course? Why is their praise and blame bestowed upon that which has neither merit nor demerit, belief and disbelief; and withheld from that which may possess the greatest, full and impartial inquiry, or the opposite?

Not only do they attach a merit and demerit to mere belief, they attach consequences of unspeakable importance to the holding or not holding certain opinions; the favour or disfavour of Almighty God, and pains, or pleasures, infinite and eternal. Is it possible, that a mind, with these impressions upon it, can come to the examination of any question, touching those opinions, without affection, so much on one side, that no evidence on the other can have any effect?

Instilling opinions, without the evidence, and at an age when the parties into whom the opinions are instilled, are incapable of understanding the evidence, is a practice which necessarily engenders habits of complicated misconduct towards evidence. It engenders the habit of neglecting evidence, of holding opinions without regard to their evidence: a habit which, as we have said



before, is the natural foundation of all intellectual and moral depravity. It also engenders habits of partial affection. Opinions early established in the mind, and connected with its oldest and most confirmed associations, are regarded as parts of one's-self: one's self-esteem, one's pride, one's love of ease, all create a decided partiality in their favour, and few minds are capable of attending to evidence on the opposite side, or of listening to it, without distaste and resentment. This exceedingly mischievous practice, however, is pursued with zeal, and even set up and applauded as a virtue, by the clergy.

The rank misconduct of the clergy in this respect, and its direful consequences, were pretty fully understood by the sincere and honest mind of Locke.

"There is," says he, "I know, a great fault among all sorts of people, of principling their children and scholars; which, at last, when looked into, amounts to no more but making them imbibe their teachers' notions and tenets, by an implicit faith, and firmly to adhere to them, whether true or false."\*

In another passage, he says, "The business of education, in respect of knowledge, is not, as I think, to perfect a learner in all, or any, of the sciences, but to give his mind that freedom, that disposition, and those habits, that may enable him to attain any part of knowledge he may apply himself to. This, and this only, is well principling, and not the instilling a reverence and veneration for certain dogmas under the specious title of principles, which are often so remote from that truth and evidence which belong to principles, that they ought to be rejected as false and erroneous."†

The following is a highly important passage :

'In these two things, viz. an equal indifferency for all truth; I mean the receiving it in the love of it as truth, but not loving it for any other reason before we know it to be true; and in the examination of our principles, and not receiving any for such, nor building on them, until we are fully convinced, as rational creatures, of their solidity, truth, and certainty, consists that freedom of the understanding, which is necessary to a rational creature, and without which it is not truly an understanding. It is conceit, fancy, extravagance, any thing rather than understanding, if it must be under the constraint of receiving and holding opinions, by the authority of any thing but their own, not fancied but perceived, evidence. This is rightly called imposition, and is, of all other, the worst and most dangerous sort of it. For we impose upon ourselves, which is the strongest imposition of all others; and we impose upon ourselves in that part which ought, with the greatest care, to be kept free from all imposition. The world is apt to cast great blame on those who have

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\* Locke, on the Conduct of the Understanding.  
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† *Ibid.*

an indifferency for opinions, especially in religion. I fear this is the foundation of great error, and worse consequences. To be indifferent which of two opinions is true, is the right temper of the mind, that preserves it from being imposed on, and disposes it to examine with that indifferency, until it has done its best to find the truth, and this is the only direct and safe way to it. But to be indifferent whether we embrace falsehood for truth, or no, is the great road to error. Those who are not indifferent which opinion is true, are guilty of this ; they suppose, without examining, that what they hold is true, and then think they ought to be zealous for it. Those, it is plain, by their warmth and eagerness, are not indifferent for their own opinions, but, methinks, are very indifferent whether they be true or false, since they cannot endure to have any doubts raised, or objections made against them ; and it is visible they never have made any themselves, and so, never having examined them, know not, nor are concerned, as they should be, to know whether they be true or false.

The misconduct of the clergy in relation to evidence, proceeds to a still higher pitch. Not only do they inculcate affection to the one side, and thereby engender habits of unfairness, of that mental imbecility and corruption, which unfit the man for honest inquiry, and leave him without the relish for truth, they do what in them lies to prevent all regard to the evidence on the opposite side, to make those who are led by them purposely shut their eyes against it. They endeavour to frighten them with it. They represent it as dangerous, if not wicked, to look at it. The young and tender mind is carefully discouraged from inquiry. The opinions of the teacher are either to be taken for granted without evidence, or the evidence which he adduces is to be held conclusive, and the very thought of weighing it, or taking into account the weight of opposite evidence, is treated as morally evil.

This vice of the clergy, pregnant with evils of such enormous magnitude, is well touched on by Locke, in the same finely toned and finely moraled discourse.

‘ Many men firmly embrace falsehood for truth ; not only because they never thought otherwise, but also because thus blinded, as they have been from the beginning, they never could think otherwise ; at least, without a vigour of mind able to contest the empire of habit, and look into its own principles ; a freedom which few men have the notion of, in themselves, and fewer are allowed the practice of, by others ; it being the great art and business of the teachers and guides in most sects to suppress, as much as they can, this fundamental duty which every man owes himself, and is the first steady step towards right and truth in the whole train of his actions and opinions. This would give one reason to suspect, that such teachers are conscious to themselves, of the falsehood or weakness of the tenets they profess, since they will not suffer the grounds whereon they are built, to be examined ; when, as those who seek truth



only, and desire to own and propagate nothing else, freely expose their principles to the test, are pleased to have them examined, give men leave to reject them if they can ; and if there be any thing weak and unsound in them, are willing to have it detected, that they themselves, as well as others, may not lay any stress upon any received proposition, beyond what the evidence of its truth will warrant and allow.'

There is one passage more in Locke, which, though somewhat long, yet winds up the whole of this important subject, of right dealing with evidence, with such useful reflections, that we need not fear the censure of any honest and rational critic for the space which it will occupy.

'It is mismanagement, more than want of abilities, that men have reason to complain of, and which they actually do complain of, in those that differ from them. He that by an indifferency for all but truth, suffers not his assent to go faster than his evidence, nor beyond it, will learn to examine, and examine fairly, instead of presuming ; and nobody will be at a loss, or in danger, for want of embracing those truths, which are necessary in his station and circumstances. In any other way but this, all the world are born to orthodoxy ; they imbibe, at first, the allowed opinions of their country and party, and so, never questioning their truth, not one of an hundred ever examines. They are applauded for presuming they are in the right. He that considers, is a foe to orthodoxy, because possibly he may deviate from some of the received doctrines there. And thus men, without any industry, or acquisition, of their own, inherit local truths (for it is not the same every where), and are inured to assent without evidence. This influences farther than is thought ; for what one of an hundred, of the zealous bigots in all parties, ever examined the tenets he is so stiff in, or ever thought it his business or duty so to do ? It is suspected of luke-warmness, to suppose it necessary, and a tendency to apostacy, to go about it. And if a man can bring his mind once to be positive and fierce for positions, whose evidence he has never once examined, and that in matters of greatest concernment to him, what shall keep him from this short and easy way of being in the right, in cases of less moment ? Thus we are thought to cloath our minds as we do our bodies, after the fashion in vogue, and it is accounted phantasticalness, or something worse, not to do so. This custom, which (who dares oppose) makes the short-sighted bigots, and the warier, scepticks, as far as it prevails. And those that break from it are in danger of heresy ; for taking the whole world, how much of it doth truth and orthodoxy possess together ? Though it is by the last alone (which has the good luck to be every where) that error and heresy are judged of ; for argument and evidence signify nothing in the case, and excuse no where, but are sure to be borne down in all societies, by the infallible orthodoxy of the place. Whether this be the way to truth and right assent, let the opinions that take place, and prescribe in the several habitable parts of the earth, declare. I never saw any reason yet why truth might not be trusted to its own evidence ; I am sure if that be not able to support it, there is no fence against error, and then truth and

falsehood are but names that stand for the same things. Evidence, therefore, is that, by which alone, every man is (and should be) thought to regulate his assent, who is then, and then only, in the right way when he follows it.

‘Men deficient in knowledge are usually in one of these three states, either wholly ignorant ; or, as doubting of some proposition they have either embraced formerly, or at present are inclined to ; or, lastly, they do with assurance, hold, and profess, without ever having examined, and being convinced by well-grounded arguments.

‘The first of these are in the best state of the three, by having their minds yet in their perfect freedom and indifferency, the likelier to pursue truth the better, having no bias yet clapped on to mislead them.

‘For ignorance with an indifferency for truth is nearer to it, than opinion, with ungrounded inclination, which is the great source of error ; and they are more in danger to go out of the way, who are marching under the conduct of a guide, that it is an hundred to one will mislead them, than he that has not yet taken a step, and is likelier to be prevailed on to enquire after the right way. The last of the three sorts are in the worst condition of all ; for if a man can be persuaded, and fully assured of any thing, for a truth, without having examined, what is there, that he may not embrace for truth ; and if he has given himself up to believe a lie, what means is there left to recover one who can be assured without examining ?’

Dr. Wardlaw is prodigiously in earnest to convince the world, that the scripture attaches the greatest merit to faith, and the greatest demerit to the want of it. We know not that so much effort, on this subject, was necessary ; but, be that as it may, this at least is certain, that the scripture can inculcate nothing that is absurd in point of reason, or mischievous in point of morality. We have seen that it would be absurd in point of reason, and mischievous in point of morality, to ascribe merit or demerit to belief. This, therefore, is what the scripture cannot do. We have seen that it is most true, in point of reason, and sound in point of morality, to ascribe merit and demerit, even the highest, to the proper and improper modes of dealing with evidence. The consequence is inevitable. It is not belief which is called, in the scripture, faith, but the proper mode of dealing with evidence. The man who deals properly with evidence, is the man who has faith ; the man who deals improperly with it, is the man who is without faith. Now, it is possible, though not very common, for a man to deal faithfully with evidence, doing his utmost to have it fully before him and to guard his mind from bias to either side, and yet to come to the wrong conclusion. It is also very possible, and unhappily very common, that a man who has never given himself any concern about evidence, and who has never been without so determined a partiality to one side, and antipathy to the other, as to



exclude even the approach to his mind of any evidence on the side which he dislikes, should hold the right opinion. Notwithstanding this, the former is the man who has the merit of dealing virtuously; the latter is the man who has the demerit of dealing wickedly with evidence. Here the man who has the wrong opinion, is the man who has faith, according to the scripture; the man who has the right opinion, is the man who, be the opinion what it may, is destitute of faith. Faith, in short, has nothing to do with creeds. Of two men, the one even an atheist, the other a sound believer, it may be, that the atheist is the man who has faith, according to the scripture; that the sound believer is the man who is destitute of faith, according to the scripture; that the atheist is possessed of all the merit, the sound believer of all the demerit, which the scripture ascribes to the possession, or the want, of that saving grace. As we have shown, that, of all classes of men, the clergy, as a class, are the most constant and the deepest offenders against the virtue of dealing rightly with evidence, it follows, that of all classes of men living, the clergy are the most remarkably destitute of faith, in other words, are of all men living, the greatest infidels.

We have dwelt at such length upon this topic, because it is necessary to complete the doctrine which the author of the work before us has so usefully recommended to public notice, and which, as far as he has proceeded, he has illustrated with the greatest skill. In his next edition, which the public, we fondly hope, will soon call for, we would recommend it to him, to add to the proof and illustration of what takes place in mere belief, the proof and illustration of what is implied in the proper mode of dealing with evidence, than which nothing of greater importance, as concerns the progress either of intellect or morality, can be forced upon the public attention. It is indeed true, that he has not entirely overlooked the subject; for in the section in which he treats of "Belief and Opinion as objects of moral approbation and disapprobation," he has adduced several of the more important ideas; but still he has not discussed it in that systematical manner which is calculated to make the deepest impression, and which the importance of the consequences deserves.

The next essay in the work, is the practical improvement of the foregoing, and intended to show that the free publication of opinions is favourable to the interests of truth, and of human happiness; that all restraints upon publication are hostile to those great interests. This subject we have so recently had occasion to discuss, that we have little more to do, on this occasion, than express our concurrence with the opinions of the author, and our approbation of the manner in which he has explained and enforced

them. Few things we should more rejoice to hear, than that this little essay were in the hands of every individual in the island, capable of reading it.

The essay "on Facts and Inferences," exposes briefly, but well, the common and highly mischievous propensity to mistake inferences for facts; and marks a very conspicuous and forward class of men, the class who title themselves "matter-of-fact-men," but of whom the proper name would be "bad-inference-men."

"The Influence of Reason on the Feelings" is an essay rather more of a common-place description, showing the extensive and mischievous sway of irrational associations, created by a bad education, or vices in the social order, and the use of reason in overcoming them.

A case of practical morality is the subject of the next two essays, "On the Dependence of Causes and Effects in Moral Conduct." It is a case to which it is of great importance to draw the attention of mankind, who, though they do not expect effects without their causes in the physical world, are very prone to do so in the moral. How many men expect to become wise without the trouble of acquiring knowledge, rich without frugality or industry, respected without knowledge and virtue, and happy while they are doing what is calculated to destroy their happiness?

The essay "On the Causes and Consequences of Individual Character," has but little of the merit which characterizes the preceding. It is vague, and the author has arrived at some of the conclusions with great facility, because he has leaped over the evidence.

We ascribe little merit to the essay "On the Vicissitudes of Life." Rather, we ascribe to it a good deal of demerit. The tendency of what is adduced, is to show that the difference in point of happiness or misery, consists in the transition from state to state, little or nothing in the states themselves, as if there were little to choose between griping poverty, and wealth, between the dread of want and security of affluence; as if hard labour, daily renewed, were not a pain, and one of the heaviest of pains. As sagely might a man tell us that the agony of a stone in the bladder, because it is habitual, is hardly to be distinguished from the state of pleasure or ease. It is surprising to find an author, who shows so much of the power of comprehensive reflection on some subjects, so inconsiderate as to be even vulgar on others.

We recognise our author again in the essay "On the Variety of Intellectual Pursuits." The reflections are those of an ingenious mind, and have the best possible tendency.

The essay "On Practical and Speculative Ability" is not without merit, though none of the observations is very profound and some of them are not perfectly accurate. Thus, in distinguishing practical from speculative ability, he tells us, that practical "has reference to the application of knowledge," as if speculative ability did not consist in the application of knowledge. This shows that the author had no distinct conception of the difference between the two.

The tendency of the essay, which closes the volume, "On the Mutability of Human Feelings," is good. After an exhibition of the changes which take place in the likings and dislikings, the desires and hopes, the aversions and fears of every individual, notice is taken of the infirmity of those who have this mutability in excess, and are called fickle; a character hurtful to the possessor, and hurtful to those with whom he has to do.

The additions which are made to this edition of the present work, are placed as notes at the end of the volume; and of these the most important by far is NOTE E, in which the author controverts a memorable position, maintained by the Edinburgh Reviewers, and which they say they "may assume as established and undeniable, that there is nothing in the nature of truth which makes it necessarily good." The course which the Reviewers pursue, to show that there is nothing in the nature of falsity which makes it necessarily bad, would show that there is nothing in the nature of theft or murder which renders them necessarily bad. We have here a specimen of the vagaries of periodical publications, the main purpose of which is to be largely sold. This same review, which maintains, on occasion, that truth is not necessarily good, and honesty is not necessarily good, because it can fancy cases in which more happiness would be gained than lost by the violation of them, does yet manfully deny, that the principle of utility and the principle of morality are the same.

ART. II.—*Narodne Srpske Pjesme, skupio i i svijet isdao Vuk Stephanovich Karatzich, (Iadranin is Trshicha a od starine Drobñak is Petnitze &c.) u Lipistzi, 1823-4. Popular Servian Songs, collected and published by Vuk Stephanovich Karatzich, &c. Leipzig. 3 vols. 8vo.*

WE think it is a very interesting and a very delightful thing to be enabled to share in the sympathies, and to understand the habitual thoughts and feelings of any large portion of our fellow men; to watch the dawn and progress of civilization among



them ; and to welcome the birth and growth of science and literature, by which individuals and nations become, as it were, admitted into the great community of intelligent man. When the first step is taken ; when knowledge begins to circulate ; when books become the receptacle and the standard of a language ; when tradition gives place to history, and all the vague and misty fables, which one barbarous age communicates orally to another, are superseded by the record of authentic facts—the seed of improvement is planted, and will probably germinate ; the impulse is given which is now acting with such wonderful, such increasing effect, upon the intelligence, the virtue, and the happiness of the whole world. It is not often our privilege to trace the very first development of literature among a whole people, but we have now before us this attractive phenomenon ; and we are convinced that our readers will participate in the pleasure with which we have contemplated the vigorous simplicity, the popular and passionate spirit, the fresh and fruitful energy, of a poetical literature, which has only now found a voice, or even an echo, beyond its earliest birth-place. We intend, on this occasion, merely to give a few specimens of the poetry of the Servians, and hope the subject will be treated more elaborately hereafter.

Till civilization has made considerable progress among a nation, the only parts of its literature, which can possess an extended interest, are the historical, and the popular (or poetical) branches. Of the two Slavonic idioms most extensively employed, the Russian possessed no history of value or of authority till the time of Karamsin, whose work, though not translated into English, is known to us through its French and German versions. Of the historians of Poland, who wrote in Latin, many are not unfamiliar to the English student ; but the *Polish* history of the Piast dynasty by Naruszewicz ; that of the Javellons by Tomaszewski ; and especially a collection of historical records by Niemcevicz and others, which are now being published at Warsaw, remain yet to be explored, and will certainly reward the labour of the explorer. Of the poets of Poland, the Latin lyricist, Casimir Sarbiewski, has an European reputation ; but their *national* bards, such as Kochanowski, Szymonswicz, Gawinski and others, whose fame in Poland is the fame of centuries, have remained—we hope they will not long remain—a blank oblivion.

Goëthe has given a translation of one of the Slavonian ballads, from the Morlachian dialect, equally remarkable for the liveliness of its pictures, the simplicity of its style, and the correct



display of natural and appropriate passions; it is called the **Lament of Asan Aga's Wife**. It begins in this fanciful manner.

What's so white upon yon verdant forest?  
Is it snow, or is it swans assembled?  
Were it snow it surely had been melted;  
Were it swans long since they had departed.  
No! it is not swans, it is not snow there,  
'Tis the tent of Aga Asan Aga  
He is lying there severely wounded.\*

His mother and his sister come to his assistance, but the alarm and anxiety of his wife induce her to linger. Asan, when the acuteness of his sufferings is diminished, declares he will no longer dwell among his kindred. His wife hastens home, "full of bitter sorrow," and hearing the stamp of horses feet, supposes that Asan is returning, and springs to the door of the tower, which she forces open in order to welcome her husband. Two of her daughters follow her in tears, and tell her that the sound is not of their father's horses, but of those of their uncle Pin-torowich.

Then approached the wife of Asan Aga,  
Threw her arms in misery round her brother;  
"See the sorrow, brother! of thy sister,  
So forlorn—a mother of five children."

He makes no reply, but draws from his pocket a written document, which is folded in a covering of scarlet silk, and tells her, that it is a decree of divorce, and that she must accompany him forthwith to the dwelling of her ancestors,

Free to win and free to wed another.  
When she saw the letter of divorcement  
Kisses on her young boy's forehead, kisses  
On her girl's fair cheeks she pressed—the nursling—  
For there was a nursling in the cradle;  
Could she tear her, wretched, from her infant?  
But her boisterous brother tore her from it,  
Threw her swiftly on the agile courser,  
And he hurried with the sorrowing woman  
To the ancient dwelling of her fathers.

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\* The measure is preserved in this, as in most of the following translations. The original runs thus:

Shta se bjeli u gori zelenoi?  
Il je snieg, il su labudovi?  
Da je snieg vech bi okopnio  
Labudovi vech bi odletili.  
Nit je snieg, nit su labodovi,  
Nego shator Age Asan age.

Hardly has she arrived there—before seven days had passed—ere many a noble asked her hand in “holy marriage.” But the noblest of the nobles was the *cadi* of Imoski, who obtains the promise of Pintorovich that he shall be the husband of the lady.

But the lady, weeping, prayed her brother :  
“ I exhort thee, on thy life exhort thee,  
Give me not, O give me not in marriage,  
For the sight of my poor orphan’d children  
Sure would break the spirit of thy sister !”  
Little cared her brother for her sorrows.

She finds resistance useless and hopeless ; and can only, after many entreaties, induce her brother to send a letter written with her own hand to Imoski’s *cadi* ; which, after friendly greetings, contains one simple but earnest request—that when the messengers shall come to conduct her to the *cadi*’s palace, they may bring to her “ a long veil ” under which she may hide herself from her “ poor orphans,” when she passes before the dwelling of Asan Aga.

The *cadi* complies with the request ; gathers together his messengers, whom he caparisons in splendid style, and the cavalcade happily reaches the abode of the betrothed lady.

But on their return, as they pass the house of Asan Aga, the children discover their mother, and call on her with loud voices, to tarry and to take supper with her own little ones. She heard them sorrowfully, and bids the procession stop while she leaves a parting present with the children.

They stop at the door, while she gives to each of her boys a pair of embroidered boots ; to the girls flowing robes ; and a dress for the babe when he shall be old enough to wear it.

Asan Aga was there—he sat silent while this was doing—

Then he called, in sorrow, to his children :  
“ Come to me, poor children ! to your father,  
For your mother’s breast is turned to iron,  
Closed against all pity”—

He had hardly finished, when the lady fell to the ground pale and trembling ; the children had gone ; and her soul (life) fled away with her children “ from her heavy bosom.”

The Servians have no written history : they consist of nearly five millions of men, and the deeds of their ancestors have no records familiar to the people. But they have rich—almost inexhaustible—stores of popular poetry. That poetry is at the same time natural and nervous ; characterising their habitual pursuits, their daily impressions, their prominent associations. We said, too hastily, that the Servians had no history ; their

poetry is their history : it is more ; it is the faithful picture of themselves. If it were unfaithful, it could not be popular. It would not approve itself to their affections, nor to their understanding. As far as we have seen, that poetry is the vernification of strong and simple feelings ; it is encumbered by few epithets ; it is swelled by few exaggerations. Its construction is simple and flowing. Their pastoral habits too, their climate and their country, are far more favourable to song than those of the more northern Slavonians. As they have little intercourse with foreigners, so their poetry is original and national.

The language of Servia is the softest and sweetest of all the Slavonian idioms. Its words have almost always vowel terminations ; it euphonizes the harshness of the assembled consonants which disfigure the Polish, and has dismissed the expletive letters which encumber the Russ. In many respects, the Servian ballads resemble those of the Spanish peninsula ; and are impressed with the same oriental character. A Servian peasant chanting to the tones of the Gusle (a miserable sort of stringed instrument) one of their hero-songs, is the very counterpart of an Andalusian *Romancero* striking the cords of his guitar at the termination of his asonant verse.

The epoch of Servian glory, if glory is identified with extended sway, was the middle of the 14th century. The hero of Servian history is Dushan, who was then the Tzar of Servia, Albania, Bulgaria, and Greece. Tradition has given to Dushan the character of an enlightened legislator, as well as a successful warrior : he died in 1356, and Servia has since been partitioned between the rulers of Vienna and Constantinople.

The more cultivated part of the Servians profess the Greek faith ; but there are many Roman Catholics, and perhaps a majority of Mussulmans among them. Their literature emanates wholly from the christians of the Greek church. The first work printed in the Servian language, was an auto-biography, by Obradovich, a monk, who had the courage to attempt, and the happiness to fix, the standard of his mother tongue. Before his time, all records were written in the miserable old church Slavonic dialect, familiar to the priests, but imperfectly understood by the people. So little had the spoken language of Servia been committed to paper, that even the industrious Adelung, in his *Mithridates* is, we perceive, unable to give more than a broken fragment as a specimen. In 1783 the work of Obradovich appeared ; in 1818 Vuk published his Servian Dictionary and Grammar ; and in 1823-4 he produced the most interesting collection of popular songs, whose title heads the present article, and of which we shall now give some account.



The author, whose name is as long as that of a Castilian grandee, "Wolf, the son of Stephen Karatzich, out of Tershich, descended from the Drobñakis of Petritza," made his first attempt to reduce the poetry of his country to a shape fit for the press in 1814. He had, for his encouragement, the curious fact, that these popular songs, which had grown up without culture, and circulated without any other than oral communication among the Servians, existed all in a pure grammatical form, and had been composed according to the correctest rules of Servian poetry. There is, in truth, no vulgar idiom in Servia—the language being nearly as well spoken by the meanest as by the mightiest. The songs, with which he was not familiar, he copied from the lips of the peasantry, and never found that the language, or the metre, required correction.

The first volume consists of what may be called pastoral and domestic poetry, of short lyrical ballads, the songs used in their several festivals, and illustrative of the habits and manners of the people. We shall give some of these, taken almost at random: we have endeavoured to preserve their primitive character in every respect, with one or two exceptions, in which we have sought to Anglicise the original, and which will be immediately discovered.

#### THE SERVIAN YOUTH TO A TRAVELLER.

O leave me ! O leave me !  
 My wants are supplied, and my steed is the fleetest  
 That dwells in our vales, and my love is the sweetest,  
 The sweetest of maidens, O leave me !  
 You do not, you cannot deceive me.

You say there are brighter  
 And richer domains than the lands of our tillage,  
 And cities to which our Belgrad\* is a village ;  
 But go to my love and invite her,  
 Will your lands and your cities delight her ?

\* There is a beautiful reference to this capital in one of the Servian songs, beginning, "Mjesetz kara zvijezdu danitzu," &c.—Vol. iii. p. 65.

Hark ! the moon is to the day-star calling :  
 "Whither hast thou been, O day-star ! whither,  
 Whither hast thou been, and where hast linger'd ;  
 Where hast lingered three pure days—O tell me."  
 To the moon, anon, the day-star answered,  
 "I have been, O moon—and I have linger'd—  
 Days among Belgrad's white turrets—linger'd  
 Days among its mighty wonders,"

O no ! she will tell thee,  
 That the place of our birth of all places is dearest,  
 That the heart curls its tendrils round that which is nearest ;  
 She will smile at thy tales of the wealthy,  
 And to shame and to silence compel thee.

Then go thou false rover,  
 We will cling to the scenes which our infancy clung to,  
 We will sing the old songs which our fathers have sung too,  
 To our country, be true as a lover,  
 Till its green sod our ashes shall cover.

There are no less than five-and-twenty songs given, as sung on the commencement of the new year among the Servians. These songs are called the songs of the queens (*Pjesme Kralichke*). It is usual for the unmarried girls to assemble in their festival dresses, on the new year's day, and to choose one from among themselves to whom the title of king (*Kral*) is given, and who is invested with the sword of authority. One becomes the banner-bearer, another is queen (*par excellence*) and so forth. These go round the villages, particularly at Whitsuntide, dancing a national dance (the *Kolo*), and singing before the houses such songs as they think appropriate to the inhabitants. M. Fauriel has given some specimens of such compositions among his modern Greek poetry, which he calls *Chansons de la St. Basile* ; but it would appear more probable, that they should be rather called songs of the 'king' (*βασιλεὺς*), than of the 'saint.' To all of these songs the burthen of *lejho* is attached, and the lines are repeated thrice as in the following specimen :

OVDE NAMA KAJU.

Here there is a maiden  
 Here there is a maiden, *lejho* !  
 Young and yet a virgin

Young and yet a virgin  
 Young and yet a virgin, *lejho* !  
 Give her then a husband.

Give her then a husband  
 Give her then a husband, *lejho* ;  
 Or give us the maiden.

Or give us the maiden  
 Or give us the maiden, *lejho* !  
 And we will betroth her.

And we will betroth her  
 And we will betroth her, *lejho* !  
 To Ivan the student.

To Ivan the student  
 To Ivan the student, leljo!  
 He's our parson's nephew.

He's our parson's nephew, &c.  
 He has art to write on  
 Pinions of the eagle;  
 What shall be his subject?  
 What, but bright-eyed maidens  
 And the brows of heroes?

MI DOCHOSMO OVDE.

Come let's seek the garden  
 Of the parish curate;  
 For the curate's garden  
 Is enclosed with pine trees,  
 Pine trees, and with maple.  
 There his wife is walking,  
 She is young and pleasing.  
 Singelie, her daughter,  
 Tracks her mother's footsteps,  
 To her mother whispers:  
 Come beloved mother,  
 Presents for the empress,—  
 To the illustrious emperor  
 Yonder handsome courser,  
 To the youth a standard  
 Of Ilintish texture;  
 To th' illustrious empress,  
 Bright and gold ear-pendants  
 But to some we'll offer  
 Garland wreath of roses,  
 Garland wreath of violets:  
 They shall look as scarlet  
 As the cheeks of roses,  
 They shall be as lovely  
 As the purple violet.\*

KOD POPOVA DVORA.

In the Parson's garden  
 Is a bed that's cover'd  
 O'er with golden flowers:  
 On it is a hillock,  
 Rich with pearls suspended,  
 And upon the hillock  
 The abode of turtles.

The violet is called *liubitza* (love) in the Servian language.

Hark ! they coo together,  
 One alone is silent ;  
 Of his mate the turtle  
 Asks in anxious language,  
 " Blessed God, assist thee,  
 My beloved turtle,  
 When I coo to thee, love !  
 Why not coo to me, love ?"  
 And the silent turtle  
 Thus addressed the other—  
 " Far away thou wand'redest  
 To a distant lover,  
 Wouldst thou have me, coo, then ?"

Our next specimen is of a higher and more mystical character. The *Vishnià* is the universal Slavonic appellation of the Trica Polonica, and is also a female name. The *Vili* are the friendly sprites (fairies) all of the softer sex, who dance in the moonlight and sometimes interest themselves about human affairs.

#### OJ VISHNIO VISHLITZE.

Vishnià ! lovely Vishnià !  
 Lift thy branches higher ;  
 For beneath thy branches,  
 Fairies dance delighted,  
 While Radisha dashes,  
 From the flow'rs the dew-drops ;  
 Fairies two conveying,  
 To the third he whispers,  
 " O, be mine, sweet Vila !  
 Thou, with mine own mother,  
 In the shade shalt seat thee,  
 Silken vestments spinning,  
 Weaving golden garments."

#### JETVU JELA LEPOTA DEVOJKA.

Lepota\* went out to the harvest—she held  
 A sickle of silver in fingers of gold ;  
 And the sun mounted high o'er the parch'd harvest field,  
 And the maiden in song all her sympathies told.  
 " I'll give my white forehead to him who shall bind  
 All the sheaves which my sickle leaves scatter'd behind ;  
 I'll give my black eyes to the friend who shall bring  
 A draught of sweet water just fresh from the spring ;  
 And to him who shall bear me to rest in the shade,  
 I will be—and for aye—an affectionate maid."

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\* Lepota is the Servian word for *Beauty*.



And she thought that her words were all wasted in air ;  
 But a shepherd, just watching his sheep-fold, was there,  
 And he flew, and with sedges, he bound all the sheaves,  
 And he made her an arbour of hazelwood leaves ;  
 And he ran to the spring, and he brought the sweet water,  
 And he look'd on the face of Beauty's young daughter.  
 And he said, " Lovely maiden, thy promise I claim,"  
 But the cheeks of the maiden were cover'd with shame ;  
 And she said to the shepherd, while blushing, " No ! no !  
 Go back to thy sheepfold, thou wanderer, go !  
 For if thou didst bind the loose sheaves, thou hast left  
 Thy sheep in the stubble to wander bereft ;  
 And if from the fountain the water thou bearedst,  
 Of its freshness and coolness thou equally sharedst ;  
 And if thou hast rear'd up an arbour of shade,  
 For thyself as for me its refreshment was made."

In the poem which follows, the two first lines would appear to be an exclamation of a lordly Turk. We introduce it as illustrative of the religious feelings of the Servians. It is necessary to explain that Sunday is called in Servian *Nadelja* (no-work), that the Turks of Bosnia generally call their Greek subjects *Wallachians*.

" Glory to God ! to God the Holy One !  
 Thy Vallachs toil for me their sabbath-day."  
 Three dark clouds gathered o'er the Moslem's head :  
 The thunderer Elias, he was one,  
 The fiery Virgin Mary was the next,  
 The holy Pantelia was the third ;  
 And thus the holy Pantelia spoke—  
 " Strike him with thunder, down, Elias ! strike,  
 Scorch him with fire, thou holy Mary, scorch,  
 And I will blast him with a tempest-wind."  
 But then the holy Virgin Mary said—  
 " Thunderer Elias ! hurl thy thunders not :  
 Saint Pantelia keep thy tempest-wind ;  
 And I, the fiery one, hold back my fire :  
 The Moslems in the Vallachs put no trust,  
 And the corn waits not for the working-day."

We remember to have heard in Finland, a country whose literature and whose language have, perhaps, excited even less attention than those of Servia, a counterpart to the next poem which we have translated. A young girl is there also introduced, seated on a cliff by the sea-shore, proposing questions to her own mind ; and suddenly a fish rises from the water, and resolves her doubts very much in the same manner.



## DJEVOJKA SJEDI KRAJ MORE.

A maiden sat on th' ocean shore,  
 And held this converse with herself:  
 "O! God of goodness and of love!  
 What's broader than the mighty sea?  
 And what is longer than the field?  
 And what is swifter than the steed?  
 What sweeter than the honey-dew?  
 What dearer than a brother is?"  
 A fish thus answered from the sea!  
 "O maid! thou art a foolish girl,  
 The heaven is broader than the sea;  
 The sea is longer than the field,  
 The eye is swifter than the steed;  
 Sugar more sweet than honey-dew,  
 Dearer than brother is thy love."

The subjection of the females to their male relations, of which the ballad of Asan Aga is a curious exemplification, will also assist to the better understanding of our next translation.

## LEPA PAVA U KOVILIU SPAVA.

Sweet Pava in the rye-grass slept,  
 And Rade to her presence crept:  
 "Sweet Pava! mine consent to be."—  
 "What, Rade, wilt thou give for me?"  
 "Sweet Pava! treasures thou shalt hold."—  
 "My brothers, Rade, want no gold."  
 "Rich dresses for thy loveliness."—  
 "My brothers wish no splendid dress."  
 "Sweet Pava! horses famed for speed."—  
 "My brothers, Rade, want no steed."  
 "Sweet maid! I'll give myself to thee."—  
 "Sweet youth! thine own the maid shall be."

But whence did the Slavonians get the classical apostrophe,  
 "Sit tibi terra levis?"

## ALMRE KONDA JEDINI U MAJKE.

Konda died, his mother's only offspring;  
 O, what grief was hers the youth to bury  
 Far away from his own natural dwelling;  
 So she bore him to a verdant garden,  
 And 'neath golden-orange trees interred him.  
 Every, every day she wandered thither:—  
 "Doth the earth, sweet son, lie heavy on thee?  
 Heavy are the planks of maple round thee?"

From his grave the voice of Konda answers :  
 " Lightly presses the green earth upon me,  
 Lightly press the planks of maple round me,  
 Heavy is the virgins' malediction ;  
 When they sigh, their sighs reach God's high presence ;  
 When they curse, the world begins to tremble ;  
 When they weep, even God is touch'd with pity."

U OMER A VISHE SARAJEVA.

Omer's court is near to Sarajevo,  
 All around it is a woody mountain ;  
 In the midst there is a verdant meadow ;  
 There the maidens dance their joyous kolo,  
 In the kolo there is Damian's lov'd one ;  
 O'er the kolo her fair head uprises,  
 And 'tis gay and lustrous thro' her beauty ;  
 Midst the kolo Nicholas address'd her—  
 " Veil your face, thou Damian's best beloved,  
 For to day death's summons waits on Damian ;  
 Half thy face veil over, lovely maiden !"  
 Hardly the prophetic words were uttered  
 Ere a gun was heard from the green forest,  
 Damian wounded, fell amidst the kolo—  
 Damian fell, and thus his love addressed him ;  
 " O my Damian ! O my son of spring-time !  
 Wherefore, wherefore didst thou shine so brightly  
 Thus so soon to sink behind the mountain ?  
 " My beloved ! O thou rose all beauteous !  
 Wherefore didst thou bloom so fair, so lovely,  
 And I never can enjoy, nor wear thee."

One word, as illustrative of a Servian's feelings during Napoleon's reign, with which we will also introduce the original as a specimen of the Servian language.

Mitrovitza kraj Save stotitza,  
 Na noj sedi nilada Mitrovkina  
 Ona sedi, pa sama besedi :  
 Oi phrantzuzu, tzane seloviti !  
 Pushtaj momke, ostashe dčbojke ;  
 Potrunushe gune i jabuke  
 I noshulye slatom navesene.—i. 242.

Mitrovitz ! a seat on Save's borders ;  
 Seated there a Mitrovitzian maiden,  
 Seated there, thus to herself discourses :  
 " O thou Frenchman ! O thou mighty emp'ror !  
 Leave the youths—the maidens are deserted !  
 Perish'd are the quinces and the apples \*  
 And the garments all with gold embroidered."

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\* Jabuka, apple, means also the female sex.

The meaning of which doubtless is, that the absence of the young men, in the number of whom was the lover of the maiden on the Save's borders, who had gone to the wars with the Austrian conscripts, had caused the orchards to be neglected, and had interfered with the accustomed display of finery among the fair.

The second and third volumes contain a great variety of religious, romantic and historical poems. As these are all of them too long for insertion entire, we shall give a sketch of one of each of the divisions, and translate a few of their more remarkable passages. The first class will remind the reader of the Mysteries of the 15th century, and of the *autos sacramentales* of Spain. They are rather more pictorial and poetic, but will be deemed scarcely less profane than the religious dramas of the monkish times, by those who forget that no impiety was ever dreamed of by their authors, who only accommodated their writings to the gross tastes of the people. We remember to have seen an ancient French play, written in all the sober seriousness of devout feeling, in which our Lord on one occasion says to Peter,

‘ Prends ton chapeau et ton épée,  
Et suis moi en Galilée.’

and, no doubt, at that period, the apostle and his master were introduced on the stage with bag-wigs, cocked hats, short breeches, silk stockings, and swords, of course.

There can be little doubt of the antiquity of the religious poem which introduces the second volume. It is entitled “The Regiment of Heaven.” In it the celestial authorities are represented as partitioning among themselves the symbols of power. St. Peter takes to himself the wine and the wheat, and the gates of heaven; St. Elias the thunder and the lightning; St. Pantaleon the heat of the dog-star; St. John the godfatherships, and the brotherhoods, and the wood of the true cross; St. Nicholas the water and the fords of streams (surely a place might be found for all these in the Pantheon), but while dividing these insignia the virgin appears weeping. Elias, the thunderer, inquires into the cause, and asks their blessed sister what sorrow has overwhelmed her, and why her white brow is wet with tears. She answers her brother Elias the thunderer, that she may well weep, for she comes from India, that unhallowed country, where the youth honour not the aged; where children obey not their parents; where the godson pursues his godfather even to judgment, and with lies, reckless of truth and faith, brings shame and sorrow upon him; where brethren



summon brethren to single combat; where the bride-giver entraps the honour of the bride; and the brother calls not a sister, sister. The saints, irritated by this representation, determine, as soon as they have divided their authority, to proceed to "the true God in his Divan," and not to leave him till their supplications have obtained from him the keys of heaven. They shut the seven heavens—they seal up the clouds, so that neither rain, nor dew, nor moonshine shall fall upon the earth; for three years neither wine nor wheat is gathered in—No! not enough for the sacraments of the church. Three years pass on,

And the drought the verdant earth has blacken'd,  
And the human race are dying daily;  
Then God sends a very fearful sickness,  
Very fearful sickness, called "heart's anguish," \*  
Young and old, both one and all, it smiteth,  
Tearing up all love, and all affection.

The few who are left repent. Another covenant is made with them by God, who promises that his snow and ice shall only descend once a year upon earth; and the poet closes by a hallelujah to the Deity, and a prayer that what has been may never be again.

*Sedañe Skadra*, or "the building of Skadar" (Scutari) of which two versions are given by Vuk, is one of the most interesting romances we have met with. The three brothers (Mrljavchevich) determine to build a city on the Bojana. Three hundred master-workmen have been employed for three years, and have not yet been able to lay the foundations; whatever they accomplish by day is destroyed by a Vila (fairy or imp p. 31) at night. At last the Vila calls the eldest of the brothers, and tells him, that his toil and cost are vain, until a twin brother and sister, *Stojan and Stojana* (words derived from *Stojim*, to stand, to stand fast) shall be found, who must be buried alive under the walls, which will never afterwards be shaken. A faithful servant is sent with six measures of money (*shest tovara blaga*) to seek the twins through the wide world, and is recommended to steal them if they cannot be purchased. He wanders about for three years, when he returns, reporting that he can no where discover *Stojan and Stojana*. Vukashin, the eldest brother, summons his principal architect and bids the three hundred workmen proceed again to raise the walls—but with the same success as before. The *Vila*, however, consents to tell them another means of completing the work. "Let the faithful wife of one of the three brothers, who shall on the fol-

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\* Srdobola, pain of the heart, the Servian name for dysentery.

lowing morning first bring the repast to the labourers, be buried under the walls." The three brothers promise one another that they will not communicate the dreadful event to their wives, but leave every thing to accident; however only the youngest, Gojko, keeps his promise. The next day, when the repasts are to be carried to the workmen, the two wives, who had been apprised of the fairy's communication, make excuses; and Gojko's young wife leaves her first-born, a child of only a month old, to the care of her sister-in-law, in order not to embarrass her husband's aged mother and her three daughters. She then proceeds, at the head of her servants, to the building-ground, and the agony of death seems to overcome her husband as he sees her approach. The unhappy woman asks him the cause of his sorrowful looks, and of the tears that run down his cheeks; and he answers:—

"Faithful one! it is a gloomy story;  
I possessed a fair, a golden apple,  
And to day it dropped in the Bojana,  
And I mourn the loss in hopeless sorrow."

Still she suspects nothing, but says to her husband,

"Nay! if thou be well, thou need'st not grieve thee,  
For a better apple thou shalt gather—  
But the hero-youth look'd sad and sadder,  
Turn'd away his melancholy visage  
That he might not meet his loved one's glances."

The two brothers-in-law then seize her by the hands, and call the master-architect, Rado, to hasten with his three hundred workmen. The lady laughs, thinking they are in jest; they begin to build round her, and reach her knees—she still smiles at what she deems their sport. But seeing a new layer of stones and timber, and the three hundred workmen all engaged in building the walls about her—they have now reached as high as her waist—the horrible reality bursts upon her mind. In vain she supplicates her brothers-in-law, in vain she calls to her husband to save her.

When the mother-bride\*—the bride and mother  
Found her earnest plaints and prayers neglected,  
She addressed herself to Neimar† Rado;  
"In God's name—my brother—Neimar Rado,  
Leave a window for this snowy bosom;  
Let this snowy bosom heave it freely

\* Tanana nevjesta.—The Servian women are called brides (nevjesta) for one year after marriage.

† Neimar, *anglice*, Master.

When my voiceless Jovo shall come near me ;  
 When he comes—O let him drain my bosom."  
 Rado bid the workmen all obey her—  
 "Leave a window for that snowy bosom ;  
 Let that snowy bosom heave it freely  
 When her voiceless Jovo shall come near her ;  
 When he comes, he'll drink from out her bosom."—  
 Once again, she sued to Neimar Rado,  
 "Neimar Rado—in God's name—my brother !  
 Leave for these, my eyes, a little window,  
 That these eyes may see our whiten'd dwelling,  
 When my Jovo shall be brought towards me,  
 When my Jovo shall be carried homeward."  
 Rado bid the workmen all obey her—  
 "Leave for these bright eyes a little window,  
 That her eyes may see her whiten'd dwelling,  
 When they bring her infant Jovo to her,  
 When they take the infant Jovo homeward."  
 So they build the heavy walls about her,  
 And they brought the infant in his cradle  
 Which a long, long while his mother suckled.  
 Then her voice grew feeble—then was silent ;  
 Still the stream flowed forth and nursed the infant ;  
 Full a year he hung upon her bosom,  
 Still the stream flow'd forth—and still it floweth.  
 As 'twas then—'tis now—let mothers marvel  
 From whose bosom flows no milky streamlet.

With one short specimen of the historical ballads of the Servians, we shall conclude, indulging the hope and the expectation, that the interesting and extensive field of Slavonian poetry will, ere long, be more cultivated by our countrymen ; and that they will find encouragement to transplant its beauties into an English soil.

#### PEROVICH BATRICHI.

O thou God of greatness and of mercy !  
 What's that fearful shouting in Bañani ?  
 Is 't a Vila, or an angry serpent ;  
 If a Vila, sure the voice were higher :  
 If a serpent, sure the rocks would hide it.  
 'Tis no Vila—'tis no angry serpent,  
 'Tis the voice of Perovich Batrichi.

He has fallen into the hands of Osman Chorovich, whom he intreats, as a brother in God, not to destroy him. A hundred ducats will be paid for his ransom ; his seven brothers, his sisters-in-law, his mother, father, his whole family are ready to make any sacrifice to save him : and Osman is disposed to re-



lease him, when another Turk, Tussana Panta, changes his purpose by the pernicious suggestion, that these bribes would, sooner or later, overthrow the Turkish power. And Panta urges this so vehemently, that Osman decapitates his prisoner. When his father, the old Perovich, hears of this, a cuckoo—though it is winter, which is not the cuckoo's time—is heard to lament that Batrichi has left no brother to avenge his death. Perovich Radul takes compassion on the old man, and engages when the day of St. George is past, and the wood is green, to assemble his troops, to march upon Bafiani, and to avenge the slaughter of Batrichi. He remains three days in the mountain Uses, and at last sees a Turk on horseback, whom he discovers to be the Osman he seeks. He bids his companions conceal themselves in the grass, and he places himself in the middle of the way, in order to seize Osman alive; and he succeeds. It is Osman's turn to plead and to offer money for ransom, and Radul answers—"My Batrichi offered *thee* a ransom, and thou murderedst him," this is thy reward. And when the aged father raised his head, he exclaimed:—

"I am blest to day, and blest for ever—  
I have lived to see the happy moment  
Which has well avenged my perish'd Batrichi"—  
Thus he spoke, and then his soul departed.  
Rest that soul in quiet everlasting:—  
God! provide for him a place in heaven,  
And to us, on earth, let peace be given.\*

ART. III.—*An Historical Treatise of an Action or Suit at Law, and of the Proceedings used in the Courts of Common Pleas and King's Bench, from the original Process to the Judgment.* By R. Boote: to which is prefixed an *Historical Treatise of the Courts of King's Bench and Common Pleas*; By George Crompton, and B. J. Sellon, Serjeants at Law. 6th Edition. By a Barrister at Law. October, 1825. Butterworth and Son.

**F**EW abuses are more difficult to eradicate than the abuses of the English Law; and, paradoxical as it may appear, the very magnitude, number, and absurdity of them are among the principal causes of the difficulty.

The modes in which these qualities exert their protecting influence are not difficult to discover.

Not a word, useful or useless, is crammed into a legal document, for the insertion of which lawyers are not liberally

\* Bog mu dao u raju naselje  
A ostalim saravlje i veselje;

paid, and frequently repaid many times over in the course of a suit. Not a transcript is made, from which lawyers do not derive considerable profit. Not a formality is there which serves not as a pretext for charges ; and scarcely a moment of delay which is not contrived to minister either to the ease or the profit of lawyers, if not to both. From every one of the numerous lies told in the course of a suit, some lawyer or other extracts fees, as a reward for devising, telling, or advising it. Every inconsistency, and every groundless distinction leads to uncertainty, and every uncertainty to law suits, accompanied with harvests of fees for lawyers : in short there is, perhaps, not a single imperfection in the law by the existence of which lawyers are not in some way or other benefitted.

From lawyers, therefore, or from those who are closely connected with present or intended lawyers (a very large and very powerful body), it would be unreasonable to expect that many projects for reforming the law should emanate. On the contrary we must expect that they should meet every projected legal reform with an opposition, strenuous in proportion to the magnitude of the abuse attacked, and the efficacy of the proposed remedy.

The magnitude and absurdity of the abuses act almost as strongly in protecting them from those who are not lawyers as in recommending them to the protection of those who are. The public are conscious that they do not know the bearings of the different parts of the complicated system on each other. They perceive certain things which appear on the face of them very like absurdities, and others which can scarcely be distinguished from lies, though called by another name. They also find it impossible to doubt that there is a very intimate connection between law-suits and ruinous expense, and vexation. But they feel that, knowing nothing of the existing law, and almost as little of what law ought to be, they are not able to judge what arrangements, if any, could be adopted, by which the advantages of law might be obtained with a smaller amount of accompanying evils. Incapable of forming their opinion on the merits of any legal arrangement, they necessarily ground it on the dicta of others.—And on the subject of law, the lawyers quite outdo their adversaries in the number, loudness, and boldness of their assertions, and also in supposed capability to judge of the comparative merits of different legal arrangements.

According to lawyers, of course, the law as it is, is excellent—it is the perfection of reason—its fictions are invariably devised for the purest of purposes—the apparent absurdities only appear so because they are but partially understood : if rightly understood they would be found exquisitely reasonable,

Nothing, then, but the most complete and frequently repeated exposure of the whole details of the abuses can have any chance of convincing the public that the abuses really do exist, and are so bad as we shall show them to be.

In our number for July 1825, we commenced an exposure of one of the most extensive and clumsiest branches of the English law—the System of Pleading—a branch which, from its extreme fertility in fees is more highly lauded by lawyers than any other.

The course we there took was, to examine what useful services the process of Pleading is capable of affording, and then to determine what practicable arrangements would enable us to extract these services from it in the most perfect manner, and with the least expense and inconvenience. Taking the plan thus formed as a standard, we commenced a comparison between that standard and the existing system of pleading. Pointing out as we proceeded the faults of that system, both in theory and practice, and the enormous mass of unnecessary evils they create. Our space prevented us from proceeding further in this comparison than the composition of the Declaration, the document on which the whole of the subsequent pleadings are founded. We had no room either to examine the composition of the subsequent pleadings, or to expose any part of what is technically termed the “Practice,” viz. the course of fee-paying, ceremony, and delay, which is made to accompany the sequence of the pleadings. We trust, however, that we made it pretty evident that the Declaration, the *foundation* and principal part of the pleadings, is so contrived as in most cases not to assist at all in attaining the ends which lawyers themselves allow to be the proper objects of pleading; and that its defects are of such a nature, that it is quite impossible that the subsequent pleadings should do more towards attaining those ends.

We have waited now several months, and have collected all the objections which we have heard urged against the system of pleading, that we took as our standard. Many of the commonplace fallacies have been muttered against it—“theoretical,” “visionary,” “innovation,” &c. &c.—but the only relevant argument we have heard adduced against that system of pleading, or rather against its adoption by the British Legislature, is, that it could not be introduced into English procedure without a complete alteration in the law itself, and in the constitution of our judicatories. The grounds given for this assertion are, first, that in English law it is very imperfectly determined what facts are investitive, or divestitive, of rights; for as a very



great proportion of that law is unwritten, consisting merely of decided cases and judicial dicta, it is impossible, until judgment is given, to know whether any new combination of circumstances will, or will not, be considered investitive, or divestitive, of a given right, more especially as in many points decisions directly opposed may be found among the cases, and ample reasons for deciding either way, may in most cases be drawn from dicta or decisions in cases in some respects analogous.

2ndly, It is urged that, if the pleading in every cause were to be performed *vivâ voce* by the parties before a judge, more especially if the number of causes were much increased by the cheapness of law procedure, the twelve judges would be insufficient to perform all the business which would fall upon them.

3rdly, That it would be very inconvenient for the parties in a suit to come to London to plead, and quite impossible to perform the pleading at the assizes before the trials began, since the parties could not collect the witnesses requisite to decide the point on which they had come to issue in the pleading, in the very short time which could be allowed them.

This argument neither denies that the plan of pleading *vivâ voce* before a judge would attain perfectly all the ends of pleading, nor that it would be perfectly practicable, under some circumstances; it merely denies its practicability in the present state of our law, and constitution of our judicatories.

As to the first objection, if it formed any argument against the system we advocate, it would equally afford an argument against the one existing. At present the pleading is performed in a tedious and expensive manner by means of long, wordy *writings*, framed without any regard to truth: we propose that it should be performed by *vivâ-voce* examination of both the parties before a judge, they being subject to cross-examination and punishment for falsehood. If, therefore, the want of certainty in the law offered obstacles to the operation of the one system, it must offer the same to the other, and much expense and delay would still be saved by the alteration; but, in truth, though a great evil, the uncertainty affects neither the one mode nor the other. The chief object of pleading is to discover exactly what the *question* in dispute between the parties really is. If the law be undefined, it will be often disputed what the law in given cases is. If it were perfectly defined there would be no such disputes: no law suits would arise, except where the occurrence of particular events was disputed. But, it is as easy to discover what the real question in dispute is in the one case as in the other.

Whether the twelve judges could or could not preside over the pleading, in addition to performing their other duties, it is

difficult to determine, since, though the number of actions brought would be increased by the alteration proposed, the judicial business in each cause would be very much diminished by it. At all events, there would not be much difficulty in adding to the number of judges if found necessary.

With a view to the convenience of suitors, a system of local judicatories would certainly afford advantages for oral pleading which are not afforded by the circuit system. But even if both the parties to every suit were always obliged to come to London to plead, and several more judges were appointed to hear them, the reform would, on the whole, cause a great saving of vexation and expense. In very few cases would the expense of coming to London for a day or two amount to so much as the cost of the written pleadings, which are now employed instead; and, in nineteen cases out of twenty, fewer witnesses would be required at the trial, if the question in dispute were really discovered, as it infallibly must be, by the means proposed, than are requisite now when the pleading is generally a mere pretence.

It would, however, be much better to have the pleading performed before the judges of the county courts, when such are established; or, perhaps, even before two justices of the peace, whose clerk would take a proper minute of the pleading and remit the issue to the assizes.

At present the pleading is performed by the *agents* of the *attornies* on each side, at a distance from the parties, and before *no authorized person*: then it would be performed by the *parties* in person, attended by their attornies, before a *judge*, or before two magistrates and their clerk.

We shall now proceed to examine briefly the composition of the pleadings subsequent to the Declaration, and to show how the lawyers contrive to extract profit at every step from the process of pleading. The reader will not fail to observe how well they have adapted their means to the end, rendering the course complicated and tortuous, and contriving innumerable pretexts for demanding fees.

A better time never yet occurred, for an exposure of the abuses of our law, than the present, when we have, perhaps, for the first time, a minister of state desirous of removing such abuses, and of making our jurisprudence what it ought to be—the means of protecting rights; instead of what it is—the means of sheltering knaves in their violations of the law—to put fees into lawyers' purses.

Mr. Peel has already done something towards removing one law abuse, which is intimately connected with, and, indeed, derives most of its mischievous power from, the defective system



of pleading—groundless writs of error. And, on the debate on that question, he expressed a wish to obtain information relating to another abuse which forms one of those defects—sham pleas.\*

We shall do all in our power to assist in supplying a part of the requisite information on that point, which it is not probable many lawyers would be found willing to furnish.

*I. Preparatory steps to the Plea.*—The Declaration, or paper by which the plaintiff states his claim, being delivered at the end of the process described in our 7th Number, the next step in the pleading is the plea or paper by which the defendant answers that claim. If the defendant live within twenty miles of London, and the Declaration be delivered more than four days before the end of a term, he has four days allowed him to prepare the plea; if the Declaration be not delivered four days before the end of a term, the defendant has till the next term to prepare it. The time, therefore, allowed to the defendant to prepare his answer to the claim against him, varies from four days to nearly five months, a variation not regulated by any considerations concerning the time which is thought requisite for the purpose, but partly by the day of the year on which the claim is made, and partly by the length of the period between the 21st of March, by which Easter is regulated, and the subsequent full moon that year. The unfortunate plaintiffs who have claims to make at the end of Trinity-term, must, if the defendants so please, suffer all the inconveniencies of nearly five months delay in the proceedings, instead of four days, purely because the lawyers, pursuing their own comfort at the expense of their clients, shut up the tribunals of Justice at that time, and take a holiday.

Although, by the rules of the court, the time allowed the defendant to plead to the declaration is *fixed*, the plaintiff, besides delivering the Declaration, is obliged to give him a written *notice* to plead, to pay fees to one of the officers of the court, for a nominal order of court, commanding him to plead. And also, in many cases, to *demand* his plea before any advantage can be taken of the defendant's omission to plead. The pretext for all this is tenderness toward the defendant—the effects, it is needless to say, are expense, delay, accidental

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\* Mr. Peel used the term "Sham Pleas," we hope he meant *untrue* Pleas. The technical term "*Sham Pleas*," includes only a small portion, and that by no means the most mischievous portion, of false pleas; and it is the falsehood and verbosity of the Pleas which do the mischief. Nothing short of causing the Plea to be made on oath, or in some other way ensuring its truth, would have any beneficial effect. To prevent Sham Pleas without doing something of this sort, would be useless, or worse than useless.



informalities, and fees; the delay attendant on this ceremony a defendant can command as of course, if he wants more he must apply to the court.

After availing himself of the power which he has in some cases as before mentioned, of waiting till the term after that in which the Declaration was delivered, before he pleads, a defendant is not at liberty to plead any defect in the previous proceedings, nor to deny the jurisdiction of the court, nor avail himself of his privilege as an attorney, but must deny either the truth of some of the statements made by the plaintiff, or their insufficiency to entitle the plaintiff to a verdict. This obligation may, however, be avoided, and license to take the time, and plead a dilatory plea or pleas, notwithstanding, may be obtained from the court as a matter of right, on paying some fees to officers of the court and lawyers. The process is as follows:—The defendant's attorney writes on a piece of paper the name of the cause, thus, "*A. v. B.*," directs it to "*Mr. —*," a counsel, and marks on it "*instructions*" to him "*to move for a special imparlance,*" for, in law, long "*time to plead,*" is called an "*imparlance, or licentia loquendi,*" and time to plead, with liberty to plead a dilatory plea, "*a special imparlance.*"\* This paper, with half a guinea, the attorney takes to the counsel's chambers. The counsel's clerk pockets the money; and, to denote that the counsel has received the fee and *made the motion*, signs his name to it. The paper is then taken to an officer of the court, who draws up, as a matter of course, a pretended rule or order of the court, granting the party the power moved for. This is called "*moving the court,*" although neither the counsel who in "*intendment of law*" moves, nor the judges who in "*intendment of law,*" are moved, and on consideration grant the rule, do any thing more in the business than pocket fees. Every part of this process is mere pretence, except the transfer of money from the pockets of suitors to those of lawyers, that, unfortunately, the suitor feels to be real. The plan here exposed is one of the most impudent modes of picking the pockets of litigants to be found even in the practice of pleading, and one of those which most frequently occur. Scarcely a single step can be taken by either of the parties to a suit, without paying the fees on a motion for leave to take the step; although, in fact, no motion is ever

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\* It is pretended by lawyers, who do nothing without a fictitious pretence, that the time which is really given for their convenience, is given to enable the defendant to speak with the plaintiff, to see if they can end the matter in dispute amicably without dispute. Hence the word imparlance.

—3 *Blackstone's Commentaries*, 298,

made ; and, if it were, the judges would not consider themselves at liberty to refuse the order, and therefore the permission granted is purely nominal. Yet, if any legislator were to propose to do without it, lawyers would tremble ; and, for the liberty of the subject, unanimously agree, that it was impossible to unravel an intricate question without it. In truth, the whole process is a mere contrivance to enable lawyers to extract fees. When, throughout this article, we speak of a pretended or nominal motion to the court, we mean a motion of the sort above described.

A *special* imparlance empowers a defendant to plead, after taking time, any dilatory plea, except that the court have no jurisdiction over the matter, or that he is privileged as an attorney. If he wishes to plead either of these, the court does not deal with him so cheaply. A plea denying its jurisdiction would, if substantiated, circumscribe its power and the amount of the fees received by its officers. The defendant must, therefore, give counsel at least a guinea to make a real motion to the court for a "*general special* imparlance," or licence to plead any plea whatever, after having taken time.

II. *The Plea.*—When the defendant chooses to plead, or the judges refuse him more delay, he may, if he has purchased a "*general special* imparlance," and paid for the Declaration, plead in succession several dilatory pleas, or pleas in *abatement*, as they are termed.

The first in order of pleas in abatement is, that the court has no jurisdiction over the question. If this be decided in favour of the plaintiff the defendant is ordered to plead again—he may then plead the disability of the plaintiff to sue, as by alleging that he is an alien enemy ; that he is dead, &c. Upon this also being determined against him, he may plead that he himself is personally privileged, as an attorney for instance, or, if a woman, as a *feme covert*. Upon this being likewise disproved, the defendant has several others, as *misnomer* of himself or of the plaintiff ; omission of other persons in the suit who are liable jointly with the defendant, and many more.

Being at length driven from all these outposts, and obliged to answer the plaintiff's demand, he has still several other expedients in his power for delaying and harassing his opponent.

There are two ways of meeting every Declaration—by demurrer, or plea. A demurrer concedes that the facts stated by the opposite party are true, but denies that they are sufficient in law to prove the right of the party pleading them. A plea, as opposed to a demurrer, denies the occurrence of the facts stated by the other party, or alleges others that prevent them from having the legal effect attributed to them by him.

The question arising on a demurrer is this—Such being the facts of the case, who has the right? The question arising on a plea is—Did such a fact occur or not?

‘A demurrer,’ says Mr. Stephen, in his book on Pleading, p. 158; ‘may be for insufficiency either in substance or in *form*; that is, it may be either on the ground that the case shown is *essentially insufficient*, or on the ground that it is *stated in an inartificial manner*; for the law requires in every plea (and the observation equally applies to all other pleadings) two things; one, that it be in matter sufficient; the other, that it be deduced and expressed according to the forms of law: and if either of these be wanting, it is cause of demurrer.\* And we may here take occasion to remark, that a violation of any of the rules of pleading, which will be hereafter stated, is, in general, ground for demurrer; and such fault *occasionally* amounts to matter of substance, but *usually* to matter of form only.’

Here we have the confession of a lawyer; of one, too, who thinks the English system of pleading “fairly entitled to the character of a fine juridical invention,” that the grounds for demurrer are *usually* mere errors of form, *occasionally*, only, insufficiencies in substance. At page 455 Mr. Stephen informs us, not however without very properly expressing his disapproval of it, that causes are sometimes decided upon mere points of form. He says,

‘In general, whenever a demurrer occurs in respect of insufficiency in the manner of statement, and not for insufficiency in substance, \* \* \* the issue joined in such cases involves a question of *form* only; and as the issue, whatever be its nature, is in general decisive of the fate of the cause, it follows, that where issue is so joined, the action must commonly be *decided upon a point of form*, and not upon the merits of the case; a result that seems inconsistent with sound justice. Thus, if the plaintiff, in an action of trespass, should happen to omit in his Declaration to state the day or time at which the trespass was committed, and the defendant should demur specially for this omission, and the issue joined on this demurrer should be decided (as it would be) in favour of the defendant—by the regular consequence judgment would be also given for the defendant, and the plaintiff’s claim would be defeated by the omission of a few words in his Declaration. Yet the time, if alleged, need not have been proved as laid, and its omission, therefore, is a fault of the most strictly formal kind.’

Some of the grounds of demurrer are of the most absurd nature imaginable: a trespasser draws a pond in secret and takes the fish; or the hirer of a horse, by overburthening the animal, strains it: unless the Declaration pretends to specify the number and species of the fish taken by the trespasser, or

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\* Per Lord Hobart, Hob. 164.



the weight with which the borrower loaded the horse, when he was, perhaps, 100 miles from home, the Declaration would, on demurrer, be adjudged bad, and the plaintiff would lose his cause, and have to pay, not only his own costs, but those which the wrong doer had incurred in resisting his just claim. Yet, providing it be positively expressed, it matters not much what he states, nor does it matter at all whether it be true or false.— One hundred whales, one hundred sharks, one hundred mermaids, would be a perfect specification in an action of trespass for dragging a fish pond, and not much more obviously false than those which are frequently given.

Whether there be any defect in the preceding pleading, or none, the party whose turn it is to plead is at every stage of the pleading very properly at liberty to demur or plead at his option. At a more advanced period of the suit, parties frequently demur for the purpose of delay, where no ground, formal or substantial, exists for so doing. Defendants, however, do not frequently demur to the Declaration, unless there be some technical defect in it.

In this early stage of the suit, if the defendant can discover no error in the technical form of the Declaration, nor yet deny that the facts stated in it, if true, would entitle the plaintiff, he usually *pleads* to it.

We have seen that each of the counts of the Declaration is in form a separate demand; occasionally it is so in reality, and then it is reasonable that the defendant should be at liberty to give a separate and different answer to each count: but in “intendment of law” it is always so, and, therefore, a defendant is always at liberty to plead to each count a separate plea. To the 480 or 290 counts of the Declarations we cited in our former article, the defendants might have pleaded 480 or 290 pleas. One plea, however, to each count was all that the common law permitted a defendant to plead. But by the statute 4th Ann, c. 16, it was “made lawful for any defendant to plead *as many several pleas* to each count as he shall think necessary for his defence, upon obtaining leave of the court.” This leave is, in practice, obtained by a pretended motion; a defendant may now, therefore, in addition to the 480 pleas to as many counts, plead as many more as he pleases to each, subject, however, to the common condition of paying fees on a pretended motion to the court for a licence for the prolixity. The power of pleading several answers to the same charge is a very useful one when limited to pleading the truth; for a defendant may very frequently have, or believe that he has, two defences, either of which would be sufficient to defeat the plaintiff’s claim. But

where, as under English law, no security is taken that the defendant shall confine himself to what he believes to be true, it is evident that this power furnishes the dishonest debtor with a powerful engine for harassing his creditor.

Instances are not wanting of the most flagrant abuse of this power; and it is habitually misused to a very considerable extent. In the action brought by one of the poor men who was wounded on the 16th of August, 1819, against some of the Manchester Yeomanry, the defendants pleaded fifty-one pleas; and as all these pleas were pleaded to the whole Declaration, and not some to one and some to others of its counts, they may justly be considered as so many defences to a *single* charge. One of the plaintiff's counsel stated in court, that this plea would cost the plaintiff 40*l*.

Such is the equal justice dealt out to rich and poor in England. A poor labourer, earning eight or ten shillings per week, is wantonly cut down and his limbs trampled upon and crushed. When the mangled victim crawls to the justice-seat to crave compensation for the injury, his demand, which has cost him all the savings from years of labour, added to all that he could beg or borrow from his friends, is met by a plea, 49–50ths of which are false, and even legally unnecessary: and for this plea he, a labourer at eight shillings per week, is required to pay forty pounds!

The fifty-one pleas were in substance as follow; the arrangement is, however, different: we have arranged them so as to render the differences between them as obvious as possible. We give it as a specimen.

1. Not Guilty. (i. e. general issue).
2. A *riot* committed by the Plaintiff and others in the view of the Defendants, *whereupon the Defendants requested the Plaintiff and others to disperse, and because the Plaintiff and others would not disperse themselves, &c.* therefore the Defendants gently laid their hands upon Plaintiff, &c. and did a little strike *cut, wound, &c.* the Plaintiff, as they might lawfully do, to disperse them.
3. Same as 2nd, *omitting* allegation of *request*.
4. Same as 2nd, *omitting* justification of *cutting and wounding*.
5. Same as 2nd, *omitting both* allegation of request and justification of cutting and wounding.
6. A *conspiracy* by the Plaintiff and others to move and excite the King's subjects to hatred and contempt of the Government, and to alter the constitution of the Realm, a meeting at the time in pursuance and furtherance of that Conspiracy whereupon the Defendants requested the Plaintiff and others to disperse, and because the Plaintiff and others would not disperse themselves, &c. therefore the Defendants gently laid their hands upon Plaintiff, &c. and did a little strike cut, wound, &c. as they might lawfully do to disperse them.

7. Same as 6th, *omitting* allegation of *request*.

8. Same as 6th, *omitting* justification of *cutting and wounding*.

9. Same as 6th, *omitting both* allegation of request, and justification of cutting and wounding.

10. That the Plaintiff and others *unlawfully met* in a tumultuous, dangerous, and menacing manner, to the terror and nuisance of the late King's subjects whereupon the Defendants requested the Plaintiff and others to disperse, and because the Plaintiff and others would not disperse themselves, &c., therefore the Defendants gently laid their hands upon Plaintiff, &c. and did a little strike cut, wound, &c. as they might lawfully do to disperse them.

11. Same as 10th, *omitting* allegation of *request*.

12. Same as 10th, *omitting* justification of *cutting and wounding*.

13. Same as 10th, *omitting both* allegation of request and justification of cutting and wounding.

14. That Plaintiff and others *unlawfully and riotously met* to disturb the peace, to the great danger of the public peace, with allegation of request and justification, as in 2nd, 6th, and 10th pleas.

15. Same as 14th, *omitting* allegation of *request*.

16. Same as 14th, *omitting* justification of *cutting and wounding*.

17. Same as 14th, *omitting both* allegation of request and justification of cutting and wounding.

18. That the Plaintiff and others *unlawfully met and assembled* in a dangerous and menacing manner—allegation of request and justification as in 2nd, 6th, and 10th.

19. Same as 18th, *omitting* allegation of *request*.

20. Same as 18th, *omitting* justification of *cutting and wounding*.

21. Same as 18th, *omitting both* allegation of request and justification of cutting and wounding.

22. That Plaintiff and others *conspired* to excite the subjects of the late King to hatred and contempt of the Government, and that they unlawfully met for that purpose—allegation of request and justification as in 2nd, 6th, and 10th Pleas.

23. Same as 22nd, *omitting* allegation of *request*.

24. Same as 22nd, *omitting* justification of *cutting and wounding*.

25. Same as 22nd, *omitting both* allegation of request and justification of cutting and wounding.

26. That Plaintiff and others *unlawfully met* to excite discontent in the late King's subjects against the Government and Constitution—allegation of request and justification as in 2nd, 6th, and 10th Pleas.

27. Same as 26th, *omitting* allegation of *request*.

28. Same as 26th, *omitting* justification of *cutting and wounding*.

29. Same as 26th, *omitting both*.

30. That the Plaintiff and others committed a riot, that proclamation to disperse was made by a Magistrate, that Plaintiff and others *knowing proclamation to have been so made* refused to disperse, whereupon the Defendants gently laid their hands on the Plaintiff and others, and did a little strike, cut, wound, &c. to disperse them, as they might lawfully do.

31. Same as 30th, *omitting* allegation of *knowledge*.

32. Same as 30th, *omitting* justification of *cutting and wounding*.



33. Same as 30th *omitting both* allegation of knowledge and justification of cutting and wounding.

34. That the Plaintiff, Hunt, and others riotously met, and that divers Magistrates *on view of the riot* issued their warrant to the constables of Manchester to apprehend Hunt and other persons, that the Defendants on that occasion acted in aid of the constables, that the Plaintiff and others assaulted the Defendants *whilst acting in the execution of the warrant*, and that the Defendants in their own defence did a little strike, cut, wound, &c. the Plaintiff, as they might lawfully do.

35. Same as 34th, *omitting* justification of *cutting and wounding*.

36. Same as 34th, except alleging that the *gentle* laying of hands, and *little striking, cutting, and wounding*, of Plaintiff took place “*immediately after* the execution of the Warrant.”

37. Same as 36th, *omitting* justification of *cutting and wounding*.

38. Same as 34th, except alleging that the warrant was issued “*in consequence of information on oath by Richard Owen*” instead of “*on view*.”

39. Same as 38th, except *omitting* words “*cut and wound*.”

40. Same as 38th, except alleging that the gentle laying of hands and little striking, cutting, and wounding of Plaintiff took place “*after* the execution of the warrant,” instead of *during* its execution.

41. Same as 40th, *omitting* words “*cut and wound*.”

42. That the Plaintiff and others *unlawfully met* in a tumultuous, dangerous, and menacing manner, *to the terror and nuisance of the late King's subjects*—warrant issued, and justification, as in 34th Plea.

43. Same as 42nd, *omitting* words *cut and wound*.

44. That the Plaintiff and others unlawfully and riotously met to disturb the peace, to the great danger of the public peace—warrant issued, and justification, as in 34th Plea.

45. Same as 44th, *omitting* words “*cut and wound*.”

46. That Plaintiff and others committed a riot, &c., that the Defendants endeavoured to restore peace, whereupon the Plaintiff and others assaulted the Defendants, who in their own defence did a little strike, cut and wound the Plaintiff, as they might lawfully do.

47. Same as 46th, *omitting* words “*cut and wound*.”

48. Same as 46th, except alleging unlawful meeting instead of riot.

49. Same as 46th, except *alleging unlawful meeting instead of riot*, and *omitting* words *cut and wound*.

50. That Plaintiff and others made an assault on Defendants, wherefore Defendants defended themselves, and if any damage happened to the Plaintiff it was from his assault on Defendants, and in said Defendants own defence.

51. Same as 50th, *omitting* words “*cut and wound*.”

Remarks on the excessive verbosity of this instrument are unnecessary, the motives for making it so verbose are obvious enough. Our readers are of course aware that what we have given is but a *very short* abstract of the original pleas.

Many of the imperfections of the English system of pleading

lie on the surface : but of all its monstrosities, the liberty given to the defendant of pleading the *general issue*, as it is called, is, perhaps, the most palpable. The general issue is a hack plea, which denies in *general* terms the truth of the Declaration. "The general issue" in an action of trespass is, that the defendant is Not Guilty of the supposed trespass laid to his charge. That in assumpsit is, "that the defendant *did not promise* in manner and form as the Plaintiff hath declared against him."

These pleas enable the defendant to avoid confessing any of the facts alleged in the Declaration, and consequently compel the plaintiff to prove, by evidence at the trial, *all* the facts necessary to sustain his right, though many, or even all of them, may be indisputable. They also leave the plaintiff entirely ignorant what defence will be set up against his demand, and thus give the defendant a chance of surprising the plaintiff by a defence, which being unexpected, he is not prepared to meet. Being thus advantageous to the defendant, the general issue is, of course, always pleaded, whatever be the number or nature of the other pleas employed.

The charge is in the action of trespass, that the defendant trespassed on the plaintiff's land ; the plea to this is, "that the defendant is not guilty of the supposed trespass laid to his charge." A trespass is an entry on the land of another without legal authority. When, therefore, the defendant denies that he committed the trespass charged, he denies that *he* entered *the plaintiff's land without lawful authority* : this plea would be true, if the land in question were not, when the supposed trespass was committed, the property of the plaintiff ; it would also be true, if the defendant *did not enter* on the land, or if *he had legal authority* for so doing. The plaintiff is therefore obliged, in order to refute this plea, to incur the expense of producing, at the trial, evidence to all the facts which he would have had to prove, if the process of pleading had not been performed ;—namely, that the land in question was his property, and that the defendant entered upon it : and if he is incapable of proving, at the trial, these facts by *legal* evidence, the defendant will get a verdict, although the truth of them may be indisputable. Even this is not all the evidence with which the plaintiff must be prepared at the trial : he must incur the expense of bringing, in case they should be wanted, witnesses to meet every defence which he conceives it possible the defendant can set up ; and, after all, he is liable to be surprised by unexpected proof of a fact which, being unanswered, acquits the defendant, although, if the plaintiff had expected such a defence, he could perhaps have satisfactorily rebutted it.

The general issue in Assumpsit, and the other general issues, may be shewn, in the same way, to be productive of similar mischief. In assumpsit the charge is, that the defendant in consideration of a debt due to the plaintiff *promised* to pay a certain sum of money : to substantiate this charge, all that is necessary, is, to prove that the defendant is indebted as alleged—the law *implying a promise* wherever there is a debt. As the promise in law is thus dependent on that debt, if the defendant proves that there is no debt, he proves, according to the logic of lawyers, that there was no promise—that is he proves what he has pleaded. Under the plea of non assumpsit, therefore, he may prove any thing that goes to show that he is not indebted.

The general issue renders the whole process of pleading nugatory. The only rational object of pleading is, to reduce to its minimum the expense of adducing evidence, by reducing the question for decision to its narrowest limits. The only science of pleading—all that is worthy of that name—is the science of narrowing the limits of the question for judicial decision. Unless a defendant acknowledges some of the facts alleged in the plaintiff's charge, he leaves the question exactly as he found it, and it cannot possibly be reduced at all until he has confessed some of them. By the general issue, the defendant avoids confessing any one of the plaintiff's facts, and consequently avoids limiting himself to any particular line of defence—the question for trial is therefore left in its widest possible state—in that state in which it would be, if no pleading was attempted, and the cause went to trial without any such process. The only difference between the present and that barbarous practice is, that lawyers obtain many fees, and litigants suffer much vexation, which would not exist, were the parties to go to trial without performing the ceremony of pleading. Yet, such is the state of English procedure, that the power of pleading the general issue is at present a beneficial power.

Lawyers are so well aware of the effects of pleading the general issue, that wherever the object is to favour any particular class of defendants, the legislature under the guidance of lawyers enables the defendants to plead the general issue ; and give the statutes, in their favor in evidence, instead of pleading them. For instance, in actions against unpaid magistrates, for misusing their powers.

When a defendant is conscious of the absence of all ground of defence, and his object is merely to gain time, he frequently, instead of relying on the general issue, pleads certain established and hacknied lies, technically called, “sham pleas :”



the most common of these is, that the plaintiff has already recovered judgment on the same cause of action. By this plea the defendant gains considerable delay, for if he had relied on the general issue, the cause could have been brought to trial by the plaintiff at the next assizes ; but by pleading that the plaintiff has already recovered judgment for what he now sues, instead of simply denying the plaintiff's charge, he lengthens the pleadings one step, and obliges the plaintiff to reply. When the plaintiff has replied by denying that he has recovered judgment, the defendant, instead of joining issue which would oblige him to go to trial, demurs to the replication, and so obtains more time.

We ourselves know a barrister who signed in two terms between thirty and forty of these pleas in as many causes, and twenty or thirty sham demurrers for one attorney alone, whose business was so small, that he employed but one clerk—thirty-nine of these documents were signed in one day, and we have reason to believe, that many more such pleas in causes in the Common Pleas were signed by serjeants for the same attorney in the same time.

These “sham pleas” are employed when time only is wanted—when the defendant's object is to injure his antagonist, or to deter him by the expense from prosecuting his suit, he pleads a great number of long special pleas, which although equally false with the sham pleas, do not go by the same technical denomination.

The Plea, like the Declaration and all the other pleadings, is drawn by a special pleader, who receives one or more guineas for the draft. The draft must, in most cases, be afterwards signed by counsel, for which signature half a guinea is paid, and one or more additional guineas are often paid him for “perusing” it. Almost every pleading is obliged to be signed by counsel. For each signature the barrister receives half a guinea on the false pretence of reading the instrument, to see that it contains no impropriety. In many cases, however, he does not see it at all, but it is signed by his clerk ; and even when it is seen by him, he never reads it, unless out of curiosity, or when an additional fee is paid for that purpose. Yet if this half guinea be not paid, and the signature obtained, the instrument is treated as a nullity, and the other party may sign judgment, as if the party pleading it had neglected to plead at all.

The plea being drawn and signed, is engrossed and filed with the clerk of the papers, who makes a copy of it for the plaintiff, which he delivers to him on the receipt of fees.

**III. Subsequent Pleadings.**—We have already stated that

there are two modes of pleading to the merits: the one by denying the occurrence of some of the facts pleaded by the opposite party; the other by confessing their truth, but shewing other facts which modify their effects. Whenever, at any stage of the pleading, either party simply denies the occurrence of any fact pleaded by the other, the pleading as to that fact is at an end—the fact is ascertained to be one of those really in dispute, and the party pleading it can plead nothing in answer to the denial, but must proceed to trial, unless indeed he demurs to the pleading by which its occurrence is denied. But whenever either party pleads fresh facts, the other is of course at liberty to deny those facts, or to meet them by pleading new ones.

The pleading by which the plaintiff answers the *plea* is called the *replication*. This, if by way of confession and avoidance, the defendant answers by a paper called the *rejoinder*. The plaintiff's plea to the rejoinder is called the *surrejoinder*; and that of the defendant in answer to the surrejoinder the *rebutter*.—To the rebutter the plaintiff answers by the *surrebutter*, and so on, for there is no legal limit, until all the facts pleaded by both parties are either denied or admitted.

The practice in the course of ceremony and fee-paying relating to all the pleadings subsequent to the "*plea*", is in almost all things the same as that relating to the plea. Nearly all the remarks applicable to the one are applicable to all the rest. All of them are drawn by special pleaders—all of them, if by way of confession and avoidance, must be signed by counsel. All of them are filed in the office or delivered to the opposite attorney; and for all of them fees are paid on delivery. At each stage of the pleading, the party whose turn it is to plead, must, as in the case of the plea, be called upon by a rule or order of the court calling on him to proceed; for until this expense has been incurred, neither party can be compelled to reply, rejoin, or proceed, at any of the stages of the pleading. And, finally, should it not be convenient to the party ruled, to reply, &c. when the time limited by the rule expires, he can, also, as in the case of the plea, obtain more time by summons and a judge's order thereon.

But, although in most respects similar, there is one very material difference between the plea and every subsequent pleading.

The statute of Ann, which empowers defendants to plead a plurality of pleas to each count of the Declaration, does not extend to any other stage of the pleading. It does not enable a plaintiff to *reply* more than one matter to each *plea*. Nor

does it empower either party at any of the subsequent stages, to give two answers to the preceding pleading. It does not enable even the defendant in an action for a penalty to plead two *pleas* to the Declaration, neither does it admit of pleading and demurring to the same count. In all these cases, a man who has several answers to the preceding pleading, all of which he believes to be true, is compelled to elect *one* of them, and if by any accident he fails in the proof of that at the trial, he loses irrecoverably the subject matter of the action, though his right to it may be beyond doubt, and although he could, if permitted to revert to his other answer, prove that right by legal evidence.

The statute of Ann is a fair specimen of the way in which the law has been improved by tinkering legislation. Several cases previously existed, in which a party was obliged to confine himself to *one* plea, while justice required that he should be allowed to employ *two* or more:—The legislature under the guidance of lawyers, gave power to the parties in *some* of these cases to plead *fifty* or more pleas, where *two* or perhaps *three* were required; at the same time giving a general licence to all persons to do the same thing, in a number of other cases, where *one* plea was all that justice would allow of, and leaving many cases where *two* were absolutely requisite in the same state as before limited to *one*. Injustice on the one hand from excessive restriction, and on the other from excessive licence, pervades the English law throughout. Scarcely a rule of it is there which is not so clumsily drawn, that it at the same time permits acts of injustice which it is its professed object to restrict, and restricts the honest man where he ought to be free.

IV. *Demurrer*.—We have already stated that the party whose turn it is to plead, may at any stage of the pleading demur, whether there be any ground for demurrer or none. A very common mode of gaining time and heaping expense on the other party, is to continue pleading false and voluminous pleas by way of confession and avoidance; keeping by these means the opposite party as long as possible, from pleading a simple denial of any fact alleged by the false pleader; and when this becomes inevitable, demurring to such denial. By this last step, he avoids going to trial at the next assizes, and his opponent is obliged to enter the demurrer for argument, and wait at least till the next, and generally for several terms before the argument comes on.

The one party having demurred, the other can avoid the delay attending a demurrer, only by obtaining leave from the



court to amend the pleading demurred to. If the demurrer be without cause and made only to obtain time, amendment it is evident is out of the question,—there is nothing to amend. A dishonest defendant has therefore absolute power to subject the plaintiff, by an unfounded demurrer, to all the expense and delay we are about to describe.

If a proper system of pleading were established, it would not in most cases take five minutes to demur, and finally terminate the pleading. The one party would demur, by saying that he considered the facts pleaded by the other insufficient in law to support his case. To which the latter would either reply that he considered them sufficient, or amend his case by stating more correctly the facts on which he founded his claim. In the first case the pleadings would be at an end, in the other it would proceed as if no demurrer had been made.

If the pleading were performed before a superior court or judge, the question of law would be decided immediately on coming to issue on the demurrer, unless the judge saw reason for delay, if not, the note taken of the pleadings by the judges' clerk, would be remitted to the proper tribunal for decision.

Compare this with the practice of English law.

The parties being at issue on the demurrer, the plaintiff's attorney, as the first step towards the argument, furnishes the clerk of the papers with a copy of the Declaration. With the aid of this copy the clerk of the papers makes up the "*Demurrer-book*," which is a transcript of the *whole* of the pleadings in the cause—the declaration, plea, replication, &c., down to the joinder in demurrer. For making up the demurrer book, the clerk of the papers receives eight-pence per folio, each folio consisting of seventy two words. When the demurrer book is made up, it is delivered by the attorney of the plaintiff to the attorney of the defendant, with a rule of court commanding him to return it in four days. If duly returned and *paid for* within the four days, the plaintiff's attorney obtains a roll of parchment from the person appointed to deliver out the rolls of the court, and enters on it the warrants given by the parties to their attorneys, authorizing them to conduct the suit, together with a *copy of the whole Demurrer-book*. This roll is then registered by an officer of the court, to whom fees are of course paid for registering it; and a pretended motion is made, the purpose of which is, to get the cause entered for argument. To get the cause entered, the pretended motion-paper signed by counsel, is, together with the roll, taken first to the clerk of the papers, who marks the word "read" on the roll, signs the motion-paper, and pockets fees. These important services rendered,

the motion-paper is taken to another clerk, who makes out an order in the name of the court for the entry of the cause, and charges another sum. The attorney is then sent back to the clerk of the papers who enters the cause on the list for argument, and receives more fees.

This circuit through the law offices, so essential to the *just* decision of the cause being achieved, each party is obliged to make out two more copies of the whole demurrer-book, in order that a copy may be delivered to each of the four judges of the court, accompanied with fees to their clerks. If either party is prevented by poverty or any other cause from delivering his two copies at the proper time, the other delivers two for him; and unless the defaulter pays for them before the day of argument, his cause is not allowed to be argued, but judgment is given against him without a hearing; his omission to pay a large sum of money being treated as conclusive evidence that he has no right.

If the demurrer is intended to be argued, two, three, or more counsel on each side receive five, ten, or more guineas each to argue it. And a copy of the demurrer-book, with observations on it, must be sent to each of them as instructions.

When the cause is entered for argument, it is of course placed at the bottom of the list of those on hand. The Tuesdays and Fridays in each week during term, or about *twenty* days in the year, deducting holidays, are set apart for the argument of demurrers and special cases,—and this was (until a statute of the present reign gave the judges of one of the courts *liberty* to add to it a *few* additional days out of term), all the time allowed for arguing all the special arguments which arose in England, whether few or many.

The consequence of this is, that two or three terms generally elapse before the cause arrives at the top of the list: until this time has expired, no preparations need be made for argument; but as the parties might compromise the matter before the time for argument, and thus deprive the attorney of the job of preparing counsels' briefs, he generally takes care to deliver the briefs as soon as, and often long before, the cause is entered. This obliges him to give to each counsel employed, in addition to the fees left with the brief, another guinea, or more, every succeeding term until the argument comes on. The additional fee is called, in law slang, "a refresher"—a *refresher* truly, as respects the lawyer, but refreshing nothing in the client, but the consciousness of his unhappy situation. In order still more effectually to refresh the client, he has to pay term fees, *that is*, so much for every term the cause continues in hand,

Even when the case has arrived at the top of the special paper, the counsel having before their eyes the prospect of repeated “refreshers,” and the attorney being unwilling to lose a client, pretexts are usually found for delaying the argument a few more terms. At length, after repeated delay, the lawyers discover that their client is becoming suspicious, or that nothing more can be drained from his pocket, and then the cause is permitted to be argued.

At any period, from the time of demurring, until the judgment of the court is actually delivered, the judges will permit the one party to withdraw the demurrer, or the other the pleading demurred to, and to plead *de novo*. Indeed, until the demurrer is placed in the record, as here described, this can be done as a matter of course, on paying the ordinary tax on licence—the expense of a pretended motion: when the demurrer is withdrawn, the pleadings in the cause recommences at the point where it was broken in upon by the demurrer: thus, if the defendant had demurred to the replication, on withdrawing the demurrer, the pleading would recommence with the rejoinder. By these means a dishonest debtor is enabled to delay very seriously his creditor; he can arrest the course of pleading by a demurrer, if there be a slight defect in the pleading, and, after gaining several months delay, throw the cause back to the point where it left off.

V. *Preparatory steps to the Trial*.—If the demurrer be not withdrawn, the Court gives judgment upon it, and the suit is thereby concluded. If, on the contrary, the demurrer be withdrawn, or no demurrer has been made, the question has, on the termination of the pleading, to go to trial before a jury. Much ceremony has, however, to be performed, and many fees paid, after the pleading is concluded, before the cause is permitted to be tried. Some of the most remarkable features of this course of fee-paying we will point out; and, we beg our readers to remark the number of unnecessary copies of the pleadings, which parties are compelled, in the course of a suit, to pay for, according to their length. This will give some idea of the mischief done to suitors by unnecessary verbiage, and of the reason why so much of it is always employed by lawyers.

As the first step toward trial, after the pleading is terminated, a copy of the Declaration is left with the clerk of the papers, who transcribes it and all the subsequent pleadings, with some additions, on paper, calling the transcript, the *paper book*. For making this copy he receives 8*d.* per folio for the Declaration, and 1*s.* per folio for the remainder of the pleadings.\* On payment

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\* The cost of once copying merely the *Declaration*, mentioned page 85 of Westminster Review, No. VII. at 4*d.* per folio, was estimated at £32.



of these fees the paper book is delivered to the plaintiff's attorney, who takes a copy of it and sends it to the attorney of the defendant. The "paper book," with some additions, is then copied on a parchment roll, which is called the "*issue roll*." When the attorney has entered the issue on the roll, he gets, from an officer of the court a number for it, for which he pays more fees. It is then taken to the clerk of the judgments, who marks it for another fee, and afterwards to the Treasury, where it is filed. Another copy on parchment, with more additions, must then be made by the plaintiff's attorney: this copy is called the "*nisi prius record*," and is taken, together with the issue paper, to the clerk of the judgments, who marks them, and receives 3s. 6d. for the first ten folios, and 1s. for every six succeeding ones. The record is then carried to the Nisi Prius office, and there examined and sealed, upon payment of 7s. 6d. for the first eight folios, and 7s. for every eight folios succeeding.

After these, and numerous other fees are paid, the record is sent down to the country attorney for trial at the assizes: and, when the judge arrives at the assize town, it is delivered to one of the officers of the court.

Each party then draws up a statement of his case, and an abbreviation of the pleadings in the cause, and delivers a copy to each of his counsel, accompanied with five, ten, or more guineas.—The lawyers, too, generally contrive to find pretexts for one or more consultations among the counsel; for attending each of which, they receive one, or more, additional guineas each.

If there is time enough allowed for the assizes, to try all the causes entered, the cause comes on, if not, it is, perhaps, turned over to the next assizes, when all the expense of bringing the witnesses to the assize town, and maintaining them there, has to be incurred again, together with the fees on re-sealing the record, and several others.

Even when the pleading which has cost so much time and expense is at an end, the expedients for delay and vexation, and the evil effects of the long artificial pleadings, are far from being exhausted.

The most remarkable string of expedients for delaying a creditor or harassing an opponent is to be found in the proceedings in Error—These expedients owe in a great measure their

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The copies mentioned above, are not of the Declaration only, but of the *whole* of the Pleading—the fee charged is also at a higher rate in several instances, and never at a lower. The costs of making the necessary copies above described, of the pleadings in a suit with such a Declaration, would be enormous'

mischievous efficacy, and indeed their existence, to the length and excessive formality of the pleadings.

Were the written pleadings reduced, as we have proposed, to a mere judge's note of the material facts pleaded, the merely formal grounds for proceedings in Error would be swept away, and lawyers would have but little interest in contriving pretexts for multiplying copies, and the cost of the copies which were employed would be comparatively trifling.

By successive writs of error brought in the Exchequer Chamber and House of Lords, a defendant can ensure to himself nearly two years more delay after the verdict has been given against him. Mr. Peel, during last Session, made a very laudable attempt to abolish un-grounded suits in error, but the act passed is not calculated to produce much effect. Previously error could be brought in certain species of action, without giving any security to pay the debt or costs, when the original judgment should be affirmed—by this statute a defendant is prevented from staying the execution of the judgment by writ of error, without a special order of the court, unless he gives bail to secure payment of the debt and costs if the judgment should be affirmed. In short, it takes away the privilege of bringing error at pleasure without reason, from those who cannot give bail to secure the eventual payment of the debt and costs, and thus prevents some of those who have nothing but the property in dispute, from wasting part of it in law, to enable them to enjoy the rest during the delay obtained. But it still leaves every defendant, who is wealthy enough to give such security, at perfect liberty to bring groundless writs of error, if the property in dispute be sufficiently valuable to make it worth his while to retain it at that expense, or his opponent appears so nearly ruined as to render it probable that he will be unable to procure means of carrying on the suit. The difference made by this statute to defendants so situated amounts to nothing. Before the Statute they would have had to pay the debt and costs, when judgment should be affirmed : now they must give security so to do *before* the writ is issued.

We have now given an imperfect sketch of the principal features of the English system of pleading, and leave our readers to compare it with the plan proposed in our Seventh Number ; we there asserted, that the present system of pleading is the cause of considerably more than half the delay and expense of law procedure, and consequently of more than half the injustice arising from those causes. To be satisfied of the truth of this assertion, all that is necessary is to cast the eye over a lawyer's bill for conducting a suit through all its stages ; and therefore the

most conclusive mode of proving it, would have been to have given a transcript of such a bill, distinguishing the unnecessary expenses occasioned by the pleading from the other items. The length of such a document, however, places this mode of proof wholly out of our power ; but we may easily console ourselves for this restraint, by considering that such proof, though useful in many points of view, is not essentially necessary ; for it is sufficiently obvious that all the expenses in a suit which are not incurred in summoning or taking the defendant into custody, to answer the charge ; in employing counsel for the trial and collecting and adducing evidence at the trial, or in enforcing the decision of the court, are produced by the present system of pleading, and would be abolished if that system were reformed and also that these expenses form but a small part of the present expenses of a suit : besides, if pleading were properly conducted, the whole cost of a suit would be very much less than the expenses of the arrest, trial and execution are now ; for the expense of bringing witnesses to the trial would be greatly reduced by compelling each party to admit all those facts in the opponent's case that were indisputable ; and an extra fee of a guinea would, in ninety-nine cases out of a hundred, be amply sufficient to pay counsel (when employed) for assisting each party in pleading.

**ART. IV.**—*Histoire Physique, Civile, et Morale de Paris, depuis les premiers temps historiques jusqu' a nos jours ; contenant par ordre chronologique, la description des accroissemens successifs de cette ville et de ses monumens anciens et modernes ; la notice de toutes ses institutions, tant civiles que religieuses ; et, à chaque période, le tableau des mœurs, des usages, et des progrès de la civilisation. Ornée de gravures représentant divers plans de Paris, ses monumens et ses édifices principaux.* Par J. A. Dulaure, de la Société Royale des Antiquaires de France. Seconde édition, considérablement augmentée en texte et en planches. 10 vols. 8vo. Paris. 1823.

*Histoire des Français.* Par J. C. L. Simonde de Sismondi. Les neuf premiers volumes. 8vo. Paris. 1821, 1823, 1826.

**THOUGH** we have not, like so many of our contemporaries, made it our grand occupation, to impress our countrymen with a deep sense of their own wisdom and virtue, and to teach them how proud they ought to be of every thing English, more especially of every thing that is English and bad ; we are far from being unconscious how much they have really to be proud of, and in how many respects they might be taken as models by all the nations of the world. If we saw them in any danger of



forgetting their own merits, we too might preach them a sermon on that hacknied text. But it is not their failing to underrate themselves, or to overrate other nations. They are more in need of monitors than of adulators; and we cannot but think that it may be of some use to them to know, that if there are some points in which they are superior to their neighbours, there are others in which they are inferior; that they may learn something from other nations, as well as other nations from them.

While the Quarterly Review is labouring to convince us that we are a century and a half in advance of our nearest continental neighbours, it is impossible to shut our eyes to the fact, that those neighbours are at present making a much greater figure in the world of literature than ourselves. This is something quite new in the history of the two countries; it certainly was not the case before the French revolution; but it undoubtedly is the case now. While our *littérateurs*, with the usual fate of those who aim at nothing but the merely ornamental, fail of attaining even that; an entirely new class of writers has arisen in France, altogether free from that frivolousness which characterized French literature under the *ancien régime*, and which characterizes the literature of every country where there is an aristocracy. They write as if they were conscious that the reader expects something more valuable from them than mere amusement. Though many of them are highly gifted with the beauties of style, they never seem desirous of shewing off their own eloquence; they seem to write because they have something to say, and not because they desire to say something. In philosophy, they do not sacrifice truth to rhetoric; in history they do not sacrifice truth to romance. This change in the character of French literature is most of all remarkable in their historical compositions. The historians of *ci-devant* France were justly charged with despising facts, and considering, not what was true, but what would give scenic interest to their narrative; the French historians of the present day are distinguished by almost German research, and by a scrupulousness in producing vouchers for their minutest details, which forbids the idea of their having any thing in view but truth.

In the last five years France has produced many historical works of great importance; more than were ever produced by one nation within the same space of time. Some of these have been already mentioned in this journal; others we may perhaps take a future opportunity of making known to our readers. At the present moment, two of the most important lie before us; and we have derived so much instruction as well as gratification from their perusal, that we purpose giving in the present article some account of their contents.

M. Dulaure has named his work a history of Paris : the title is less attractive than the book. It is a history of Paris, even in the ordinary sense ; but if it had been no more, we should have left it to antiquaries, and to the *amateurs* of steeples, columns, and old tomb-stones. M. Dulaure's work, as a topographical history, is admirable ; but it has other and far greater merits. Our histories of London are histories of buildings, but his subject is men. His history of Paris is a chapter of the history of mankind. After describing the city of Paris as it existed at each period of its history, he does what is not often done by antiquaries, he condescends to bestow some attention upon the *inhabitants*. This part of his book, which, we are happy to observe, has been detached from the rest, and printed as a separate work in two octavo volumes, is not so much a history of Paris, as a history of civilization in France ; which is, to a great degree, the history of civilization in Europe. In it we may read how men were governed, and how they lived and behaved, in the good old times ; subjects on which little is said in the vulgar histories, and that little is but little to be relied upon. M. Dulaure has one merit, which is not a common one with historians : he pays great regard to facts, and little to assertions. He has not been satisfied with taking upon trust from one author, what *he* had already taken upon trust from another. His work is not a mere register of the opinions of his predecessors, predecessors who did but register the opinions of their contemporaries. His ideas, such as they are, are his own.

M. de Sismondi is already known to the public as a historian. His History of France, though it has not done every thing which a history of France might have done, may be pronounced worthy of his reputation ; and, when completed, will supply an important desideratum in literature. Indeed, when it is considered in what spirit, and with what objects, all former histories of France had been written, it is matter of congratulation that they were as dull in manner as they were dishonest in their purpose, and deceptious in their tendency ; and that the sphere of their mischievousness was considerably narrowed, by the happy impossibility of reading them. We have in our own history a standing example how deep a root party lies may take in the public mind, when a writer, in whom the arts of the most consummate advocate are combined with all the graces of style, employs his skill in giving them the colour of truth. It is most fortunate, therefore, that the first readable history of France should be the production of a writer who is of no party, except that of human nature ; who has no purpose to serve except that of truth, and whose only bias is towards the hap-

piness of mankind. The chief defect of M. de Sismondi's work, considered as a popular history, is the prolixity of the three first volumes; a space which, we should think, might have been better occupied than in relating how one dull, uninteresting battle or murder was succeeded by another exactly similar, in the reigns of the *rois fainéans*, or of the grandsons of Louis the Debonair. M. de Sismondi, perhaps, may urge in his defence, that his object was, to give a practical feeling of the state of society which he was describing; that, dull as these incidents are, their incessant recurrence was the sole characteristic of the period; a period the most distracted and miserable which is recorded in history: that to have merely related a battle and a murder or two, as a specimen of the rest, would have made but a feeble impression; and that it was necessary to convince the reader by tedious experience, that the history of the times consisted of nothing else. How far this apology might avail M. de Sismondi with ordinary readers, we do not consider ourselves perfectly qualified to judge: for ourselves, we think that our incredulity would have yielded to a less ponderous argument than three mortal volumes. It is but just to state, that these volumes do give, in a high degree, that practical feeling of the times, which they are apparently designed to convey; and that the reader who will have patience to go through them (for without reading them he will not fully understand the history of the subsequent period), will be amply repaid by the never-flagging interest which is kept up throughout the other six volumes.

All that is published of M. de Sismondi's work, and the more novel and interesting part of M. Dulaure's, relate to the middle ages; and to that period we shall, in the present article, confine our remarks; reserving the privilege of making ample use, on future occasions, of the important information which M. Dulaure has furnished relative to the later period of the French monarchy. Our purpose at present is, to do something towards forming, if possible, a correct estimate of what is called the age of chivalry. Hitherto, in this country especially, we have judged of that age from two or three of the facts, and no more: and even of those we have looked only at one side. The works before us are almost the first, in which any pains have really been taken to discover the *truth* with regard to the age of chivalry. In these, however, an ample stock of facts has been collected, and the subject is now ripe for a deliberate examination. All these facts lead but to one conclusion; and that conclusion is so directly at variance with the conceptions ordinarily enter-



tained respecting the age of chivalry, that the very enunciation of it will be startling to the majority of readers; and it will not be embraced upon any evidence not absolutely irresistible. We are persuaded, however, that the more narrowly the records of the period are looked into, and the more accurately its real history becomes known, the more strictly conformable this conclusion will appear to historical truth.

The conclusion is, that the compound of noble qualities, called the *spirit of chivalry* (a rare combination in all ages) was almost unknown in the age of chivalry; that the age so called was equally distinguished by moral depravity and by physical wretchedness; that there is no class of society at this day in any civilized country, which has not a greater share of what are called the knightly virtues, than the knights themselves; that, far from civilizing and refining the rest of the world, it was not till very late, and with great difficulty, that the rest of the world could succeed in civilizing them.

If this conclusion be true, it must be obvious that there is not in all history a truth of greater importance. There is scarcely any portion of history the misapprehension of which has done more to rivet the most mischievous errors in the public mind. The age of chivalry was the age of aristocracy, in its most gigantic strength and wide-extending sway; and the illusions of chivalry are to this hour the great stronghold of aristocratic prejudices. All that is aristocratic in European institutions comes to us from those times. In those times lived our ancestors, whose wisdom and virtue are found so eminently serviceable in bearing down any attempt to improve the condition of their descendants. All those whose great grandfathers had names, and who think it more honourable (as it certainly is less troublesome) to have had brave and virtuous ancestors, than to be brave and virtuous themselves; all those who, loving darkness better than light, would have it thought that men have declined in morality in proportion as they have advanced in intelligence; all, in short, whose interest or taste leads them to side with the few in opposition to the many, are interested in upholding the character of the age of chivalry. “On nous a dit,” says M. de Sismondi, “que la plus basse superstition, que l’ignorance et la brutalité des manières, que l’asservissement des basses classes, que l’anéantissement de toute justice, de tout frein salutaire pour les plus hautes, n’avaient point empêché cet héroïsme universel que nous avons nommé la chevalerie, et qui n’exista jamais que dans des fictions brillantes. Plutôt que de perdre cette douce illusion, et de détruire ce monde poétique, ferons-

nous violence à l'histoire, et nous refuserons-nous à voir qu'un semblable état social n'a jamais produit que l'intolérable souffrance et l'avilissement de la féodalité ?”\*

Before we proceed to indicate, for we can but indicate, the evidence of the important proposition which is the grand result both of M. Dulaure's and of M. de Sismondi's work, we think it proper to exhibit a specimen of what may be termed a mild, candid, and well-bred mode of dealing with unwelcome assertions ; for we are not, as yet, entitled to call them truths. It always gives us pleasure to meet with these virtues in a controversialist ; and the serviles in France, to do them justice, seem nowise inferior to their English brethren in these points. No sooner did M. Dulaure's work make its appearance than the hue and cry was raised against it. The sort of arguments, with which the book and its author were assailed, are nearly decisive of the great merit of both. Invective in general, and imputation of enmity to religion, royalty, and his country, in particular ; these, together with defamation of his private character, are the reply which has been made to M. Dulaure's work.†

We own that we are, in general predisposed in favour of a man

\* Introd. p. xx.

† The following note appended to the preface of the second edition, may serve as a specimen of the frantic rage which the work has kindled in the ultra-royalist writers, and of the dignified calmness with which their reproaches have been met by M. Dulaure.

‘ La passion de ces écrivains les a poussés fort au-delà des convenances, de la raison et de la vérité.

‘ M. de Saint-Victor, auteur d'un *Tableau Historique et Pittoresque de Paris*, sans penser que l'espèce de rivalité qui existe entre nous devait rendre son jugement suspect, a publié un *prospectus* où il fait l'éloge de son *Tableau Historique*, et parle ainsi de mon *Histoire de Paris* : *C'est un scandale sans exemple, une longue et furieuse diatribe contre la religion et la monarchie ; un amas de mensonges grossiers, de calomnies impudentes.* Il assure que son *Tableau de Paris* servira de *contrepoison aux mensonges et aux infamies de toute espèce accumulées* dans mon ouvrage.

‘ Je ne crois pas que, parmi tous les *prospectus* passés et présents, on puisse en trouver un seul qui soit aussi riche en invectives ; je ne veux ni ne dois y répondre.

‘ Qu'opposer à la *Gazette de France*, qui en Octobre 1821, affirme sérieusement, que je suis *un prêtre défroqué échappé à la basilique de Clermont*, que lui opposer, si ce n'est un *démenti* ?

‘ Que dire à cet homme de lettres, qui en 1821, a pris l'engagement public de me convaincre d'imposture, et qui n'a pas encore satisfait à cet engagement ? Que lui dire, si ce n'est : *j'attends* ?

‘ Que dire à ces journalistes, qui, pour trouver matière à leurs censures, ont puisé dans mon propre *errata* des fautes que j'y ai moi-même reconnues et corrigées ?

‘ Ces hommes, pour lancer leurs traits sans danger, se rangent bravement sous le bouclier respectable de la puissance.’

whom we hear accused by a certain class of politicians of being an *enemy to his country*. We at once conclude, that he has either actually rendered, or shown himself disposed to render, some signal service to his country. We conclude, either that he has had discernment to see, and courage to point out, something in his own that stands in need of amendment, or something in another country which it would be for the advantage of his own to imitate; or\* that he has loved his country well enough to wish it free from that greatest of misfortunes, the misfortune of being successful in an unjust cause; or (which is the particular crime of M. Dulaure), that he has given his countrymen to know, that they once had vices or follies which they have since corrected, or (what is worse still), which they have yet to correct. Whoever is guilty of any one of these crimes in this country, is a fortunate man if he escapes being accused of *un-English* feelings. This is the epithet which we observe to be appropriated to those, whose wish is that their country should *deserve* to be thought well of. The man of *English* feelings is the man whose wish is, that *his* country should *be* thought well of; and, above all, should think well of itself, particularly in those points wherein it deserves the least. The modern English version of the maxim *Spartam nactus es, hanc exorna*, may be given thus—England is your country, be sure to praise it lustily. This sort of patriotism is, it would appear, no less in request with certain persons in France, than with the corresponding description of persons in England. Accordingly, M. Dulaure's bold exposure of the vices and follies of his countrymen in the olden time, has been thought by many persons extremely *un-French*. But he shall speak for himself.

‘L’histoire, quoique très-instructive, lorsqu’elle est écrite avec une sévère fidélité, a des parties qui peuvent paraître désolantes aux lecteurs peu familiarisés avec ses tableaux austères; aux lecteurs habitués au régime des panégyriques et des complimens; aux lecteurs pénétrés d’un aveugle respect pour les temps passés et pour les personnes revêtues de la puissance; aux lecteurs trompés par des historiens qui, dans la crainte des persécutions, ou dans l’espoir des récompenses, ont altéré les traits les plus caractéristiques des personnages historiques.

‘Si l’on présente à ces lecteurs mal disposés des vérités qui leur sont inconnues, des vérités contraires à leurs préventions, à leurs idées reçues, ils s’irritent contre elles; ne pouvant les vérifier, ils les revoquent en doute, ou accusent l’auteur d’être inexact, même infidèle. C’est ce qu’ils ont fait pour mon histoire de Paris.

‘On m’a, en conséquence de ces préventions, adressé plusieurs reproches, et surtout celui d’avoir écrit en *ennemi de la France*. Je n’ai écrit qu’en ennemi de la barbarie, qu’en ennemi des erreurs et des crimes qui l’accompagnent. J’aime beaucoup mon pays, mais j’aime



autant la vérité.\* [And wherefore should he love truth, but for the sake of his country?]

‘On m’a encore accusé d’avoir de préférence cité les crimes, et passé sous silence les actes de vertu. Ignore-t-on que, dans les temps malheureux dont j’ai décrit les mœurs, les vices étaient la règle générale, et les actes de vertu les exceptions.

‘Je devais abondamment décrire le mal, puisque le mal abondait ; mais je n’ai pas négligé le peu de bien que les monumens historiques m’ont fourni. . . . . Qu’on me cite une action, justement célèbre, justement louable, et non étrangère à mon sujet, que je n’aie mentionnée honorablement ?

‘On s’est permis de dire que la publication de mon Histoire de Paris était *un scandale sans exemple*. Ce reproche, qui doit s’adresser plutôt aux personnages historiques qu’à l’historien, prouve que celui qui me l’adresse n’a lu ni Tacite, ni Suétone, ni les monumens de notre histoire, ni Grégoire de Tours, ni nos annales, ni nos chroniques, ni les écrits de l’abbé Suger, ni des milliers de pièces où les actions scandaleuses se reproduisent à chaque page. Il n’a pas lu non plus les Homélies du pape saint Grégoire-le-Grand, qui dit : *Si du récit d’un fait véritable il résulte du scandale, il vaut mieux laisser naître le scandale que de renoncer à la vérité*.

‘Je pourrais ramener les lecteurs de bonne foi ; je ne réussirais jamais à persuader ceux qui ont pris le parti de se refuser à l’évidence.’ \*

The countryman who, being present at a dispute in Latin, discovered which of the disputants was in the wrong, by taking notice which of them it was who lost his temper, would have had little difficulty in deciding between M. Dulaure and his *ultra* antagonists.

The tone of fearless honesty in the above passage, and the beautiful simplicity of its style, are maintained throughout the work, and may serve, once for all, as a specimen of its general character. Our whole remaining space will be far from sufficient to do justice to the more important subject of this article.

We premise, that whatever we may say against the *age* of chivalry, is or is not to be applied to chivalry itself, according to the ideas which the reader may attach to the term. If by chivalry be meant the feelings, habits or actions of an ordinary chevalier, we shall easily shew it to have been not admirable, but detestable. But if by chivalry be meant those virtues, which formed part of the ideal character of a perfect knight, it would be absurd to deny its beneficial tendency, or to doubt that the estimation in which those virtues were held contributed to render them more prevalent than they otherwise would have been, and by that means to elevate the moral condition of man.

We propose only to inquire, to what extent any such virtues really were prevalent during the age of chivalry.

A few introductory observations on the feudal system (and on so hacknied a subject we promise that they shall be few) are an indispensable introduction to a view of that state of society of which the feudal system formed so important a feature.

It is now acknowledged, and therefore needs not here be proved, that the feudal system was not the work of contrivance, of skill devising means for the attainment of an end, but arose gradually, and, as it were, spontaneously, out of the pre-existing circumstances of society; and that the notion of its having been introduced into the countries of western Europe by their Gothic and Teutonic conquerors is wholly erroneous. It is now known that those barbarians were very like any other barbarians; and that without any refined notions of feudal or any other sort of polity, they spread themselves over the land and appropriated it. Their kings, like all other kings, had exactly as much power as they could get; that is to say, in a rude nation, more or less according to circumstances. Originally they enjoyed, during good behaviour, a considerable share of voluntary obedience, but had little power of enforcing any obedience which was not voluntary. They became powerful sovereigns, however, when the followers of a single chief, scattered in small parties over a large country, acquired the habit of looking to the king and not to their countrymen in a body, for protection in case of need.

The vigorous monarchs of the second race, from Pépin l'Héristal to Charlemagne, at first under the title of *Maires du Palais*, afterwards under that of kings, extended the Frankish empire over Germany, Italy, and a great part of Spain, as well as over Belgium and France. The military talents of these sovereigns, and the accession of power which they derived from their vast territorial acquisitions, put a finishing hand to the change which had been going on from the time of Clovis downwards, and the government of Charlemagne may be considered a despotic monarchy. As such, it shared the fate of other despotisms. After a few generations, the sceptre fell into the hands of princes entirely destitute of spirit and ability; the reins of government became relaxed; the power of the state became unequal to the protection of its subjects; disorder at first insensibly crept in, but soon advanced with gigantic strides; and the empire, which had spread itself from one end of Europe to the other, became incapable of opposing effectual resistance to the most contemptible aggressor.

In the despotic governments of Asia, this series of events

has always been, from the beginning of history, of periodical recurrence. A Pepin founds a great empire, a Charlemagne consolidates it, which it then becomes the occupation of a series of Lothaires to lose. By the time it has reached the condition of Germany and France in the third and fourth generations of the descendants of Charlemagne, internal revolt or foreign invasion subverts the old dynasty, and establishes a new one; which, after a time, degenerates, and is in its turn displaced. Events took another turn among the conquerors of Europe. They had as yet no standing armies; the nurseries of that class of military adventurers who have always so much abounded in Asia, the materials and instruments of revolutions. Nor was a Genghis or a Timour found among the pirates of the north. The enemies whom Europe had to dread were a race who sought, not conquest, but plunder. The Danes or Normans, repelled from our own country by the vigour of Alfred, fell with redoubled fury upon France, and reduced its northern provinces almost to the condition of a desert. The government, which had, by this time, fallen into the last stage of decrepitude, could still less protect its subjects against these invaders, than it could protect them against one another.

A state of anarchy has this advantage over a despotism, that it invariably works its own cure. When the monarch could no longer protect his subjects, they were forced to protect themselves. Protect themselves they could not, except by combination: and they therefore combined. Where all were left to their own resources, it of course happened, that some had resources, and some had not. Those who had, were able to command assistance, and could therefore protect themselves: those who had not, were reduced to seek protection from others. The monarch, to whom they had been accustomed to look for protection, being no longer capable of affording it, their next recourse was to their strongest neighbour. Land was at that time the only source of wealth; the great landholder alone had the means of fortifying a castle, and maintaining a sufficient number of warriors to defend it. To him, therefore, all his neighbours, and among the rest the smaller landholders, had recourse. To induce the superior to extend his protection over their land and its produce, they had no return to offer except their aid in defending his. Here we see the principle of the feudal system. The forms of that system arose gradually; we have not room to show how.

The combination, which to its weaker members had been intended only as a means of defence, gave to its stronger head an accession of strength for purposes of attack. The weaker



communities or principalities had often to sustain aggressions from the stronger; which they sometimes found themselves able to resist, and sometimes not. In the latter case, the same motives which had induced individuals to place themselves under the protection of a combination, induced the head of that combination, when in his turn attacked, to place himself under the protection of the head of a stronger combination than his own. And thus arose by degrees the great feudal principalities which we hear of for the first time during the decline of the Carolingian race, and some of which were large and powerful kingdoms, when the authority of the feeble descendant of Charlemagne did not extend beyond the city of Laon and its vicinity.

In England, during the reign of Edward the Confessor, the formation of the feudal system had already proceeded thus far. Godwin earl of Wessex, Leofric earl of Mercia, Siward earl of Northumberland, and others, were virtually independent princes, any one of them capable of coping single-handed with the acknowledged monarch of their common country. It has been supposed that the feudal system was introduced into England at the Conquest. But this is only so far true, that the great lords had not, until that epoch, become the vassals of the crown. In France and Germany, this last step in the formation of the feudal system was taken at a much earlier date; but in what manner, and when, is left, like every thing that is valuable in the history of that remote period, to inference and conjecture. It appears probable that the chiefs who, under the name of dukes and counts, had already exercised, by the king's appointment, a delegated authority in the municipal towns, and who, in the decline of the royal power, had gradually withdrawn themselves from subjection, became the heads of all the greater combinations: or perhaps that the heads of those combinations found it convenient to obtain, from the petty prince who was still called king of France, a nominal delegation of his nominal authority, to facilitate the establishment of their ascendancy over the fortified towns; for an expiring authority always lingers in the towns for some time after it has lost all footing in the country. The transition was easy (when feudal ideas gained vigour) from this relation to the scarcely less nominal one of lord and vassal; for the paramountcy of the king was for many years almost a nominal privilege.

Thus arose the feudal system: of the workings of which we shall now attempt a rapid sketch. Our examples and proofs will be drawn chiefly from France. This, to an English reader, requires explanation. Our reasons for not selecting our own country as the theatre on which to exhibit feudality and its

train of effects, are these:—In the first place, no one has yet been found to perform for England the service which has been performed by M. Dulaure for his own country; the toilsome and thankless service of dragging into light the vices and crimes of former days: and, secondly, the feudal system never existed in its original purity, in England. The kings of England enjoyed, from the Conquest downwards, a degree of power which the kings of continental Europe did not acquire till many generations later. There were no Godwins and Leofrics after the Conquest. The lands having come into the possession of the followers of the Conqueror at different times, as they were successively forfeited by their Saxon proprietors, all the various territorial acquisitions of a great baron were rarely situated in one part of the island: he was never strong enough in any one of his fiefs to establish his independence in that one, while the attempt, even if successful, would have involved the forfeiture of the rest. The king, therefore, was always stronger than any one, or any two or three, of his vassals. They could resist him only when combined. It is difficult to say how much of our present liberty we may not owe to this fortunate vigour of the royal authority, which compelled the barons to have recourse to parliaments, as the single means of effectual opposition to the encroachments of the king. This comparative strength of the general government of the country mitigated many of the worst evils of the feudal system. Great crimes could not be committed with the same impunity in England as in France. Private wars never prevailed to the same extent: it being the interest of the king to make himself the arbiter of all disputes, and his power being in general sufficient to enforce obedience. It was only in times of acknowledged civil war, such as the calamitous period which followed the usurpation of Stephen, that England was subject to those evils from which France never was free.

In Germany, on the other hand, the principal feudatories not only made themselves independent, but remained so. It is in France that we must contemplate the feudal system, if we wish to observe it in both its stages; the feudal aristocracy and the feudal monarchy; the period in which the great vassals were independent princes, and the period in which they were subjects. Each of these periods had its peculiar characteristics: we will begin with the first.

In the year 987, Hugh Capet, one of the chiefs who at that time shared France among them, usurped the throne. We have already stated the narrow limits, within which the possessions of the descendant of Charlemagne were at that time confined.



Hugh Capet therefore acquired, as king of France, little territory beyond what he had previously held as count of Paris; a domain greatly inferior to that of the dukes of Burgundy or Normandy, or the counts of Flanders or Poitiers. It extended, in length, from Laon to Orleans, in breadth from Montereau to Pontoise. He and his immediate successors, being princes of no talent, instead of enlarging their territory or extending their influence, allowed what power they had to slip out of their hands; and, in the reign of Philip, third in descent from Hugh Capet, we find their authority bounded by the walls of five towns, Paris, Orleans, Etampes, Melun, and Compiègne.

The combinations which gave birth to the feudal system had, to a certain extent, answered their end. They afforded considerable protection against foreign, and some degree of protection against internal, assailants. The seed was put into the ground with some chance that he who sowed would be enabled to reap: and, from this time, progression in wealth and civilization recommenced. But, though some security to person and property is absolutely necessary to enable wealth to accumulate at all, the feudal system is a decisive experiment how small a portion of security will suffice.

Three classes composed, at this early period, the population of a feudal kingdom: the serfs who produced food, the nobles, or military caste, who consumed it, and a class of freemen who were neither nobles nor serfs: but this class, among the laity at least, soon terminated its short-lived existence. A class of freemen it can scarcely be called. Their freedom, the sort of freedom which they enjoyed, excluded them from protection, without exempting them from tyranny. The slave was at least secure from the oppressions of all masters but his own; the freeman was, like uninclosed land, the common property of all. We learn from the capitularies, or ordinances, of the Carolingian race, that the *ingenui*, or free-born, were frequently forced to perform menial offices in the houses of the *seigneurs*: if poor, they were compelled to follow the nobles to the wars; if rich, they were amerced in an amount exceeding their property.\* They were thus driven to seek subsistence and comparative security by becoming the slaves of their oppressors. As for the serfs, they were, literally, in the condition of domestic cattle; their master considered them as such, and treated them in the same manner; or rather, much more cruelly, because he feared them more. They were liable, at his will, to the infliction of any amount of stripes; to the loss of their ears, eyes, nose, feet, or

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\* Dulaure, i. 460.



hands, and, finally, of their lives. Power absolutely unchecked, in the hands of such men as the feudal chieftains, men utterly unaccustomed to control any impulse of passion, had its customary effect. We are informed that a hundred and fifty lashes were a frequent punishment for the most trivial fault.\*

In order to form some further conception of this state of society, we have to imagine a perpetual civil war: war, not between two great divisions of the nation, which might rage in one district, leaving the others in tranquillity, but between every landed proprietor and his next neighbour.

That the knights of old were very easily affronted, is acknowledged by their panegyrists themselves. Even in these days, when that salutary instrument of moral discipline, the gallows, renders the consequences of an affront offered to an irascible neighbour somewhat less serious than formerly, we are not wont to regard irascible characters with much veneration or esteem. But we invest the irascible characters of former days with all the courage of a captain of dragoons, and so delighted are we with our own romantic conceptions, that we are ready to fall down and worship their imaginary original. When a knight was insulted, or thought fit to consider himself so, our notion is, that with scrupulous regard to all the niceties of modern honour, he sent his squire with a defiance to his enemy, challenging him to single combat. Possibly some knights might have been found who were thus punctilious; but the generality of them had a much less refined notion of the point of honour. Assassination, indeed, though horribly frequent, was but the exception, not the rule; or society must have ceased to exist. It was the labourers, and other cattle, on the offender's estate, who in general paid the penalty of their master's offence. The insulted party sallied out of his castle, and without any previous notice, proceeded to devastate the lands of his enemy; destroying the crops, burning the habitations, and carrying away both the species of live stock above spoken of. This done, he made haste to seek shelter in his castle, before his enemy had time to call together his vassals and pursue him. The other party, if he did not succeed in overtaking the plunderers, retaliated by entering upon the domain of the aggressor, and doing all the mischief he could. If they met, a battle took place; and woe to the vanquished! If unfortunate enough to be taken prisoner, he was subjected to the most excruciating torments, until forced to comply with whatever demands the victor's rapacity might dictate. *Catasta* was the name of the most

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\* Dulaure, i. 461.

usual instrument of torture. The prisoner, being placed on an iron cage, or chained down upon an iron bed, was exposed, in that situation, to fire. One of M. Dulaure's anecdotes will serve for illustration. Theobald 5th, count of Chartres and Blois, a contemporary of our Henry 2nd, and one of the most powerful feudatories north of the Loire, was engaged in hostilities with Sulpice, seigneur of Amboise. His enemy fell into his hands, was put in irons, and exposed every day to the catasta. In vain did he offer large sums by way of ransom; the rapacity of the conqueror would be satisfied with nothing less than the possession of the town and castle of Chaumont. The required concession was at length extorted from the agonized captive: but his vassals still held the place, and refused to surrender it. His life speedily fell a sacrifice to this horrible torture.\*

The celebrated anecdote of king John and the Jew's teeth, as it has, besides the cruelty, something whimsical in it, fixes itself in the memory; and is perpetually quoted as an extraordinary instance of the cruel treatment to which the Jews were subject in that reign. Yet what is this, compared to what we here see practised by one *seigneur* upon another? Judge what must have been the treatment of the mere knight, and still more that of the burgess and the slave.

The fortresses, in which the terrified cultivators took refuge, were generally strong enough to defy any means of attack which the art of war at that time afforded. But the strongest castle might be taken by treachery or surprise; and, on these occasions, men, women and children were cut to pieces. This, indeed, was in a manner the law of war. On the storming of a place, it was the ordinary course of events. We hear much of the horrible butcheries which were practised in the wars of religion, on the storming of a town. We imagine, few are aware that these butcheries were neither new nor extraordinary; that they were no more than what the barons practised in their most ordinary wars, both foreign and domestic, when they had not even the imaginary dictates of their horrible superstition to plead in excuse.

It was an easy transition from these exploits to highway robbery. This practice, we are accordingly informed, was universal among the poorer nobility. Any honest employment would have been disgraceful: they wanted money: if they had cities to pillage, it was well; if not, they pillaged travellers. An Indian Brahmin, when his profession fails him, is at liberty to engage in the occupations of that caste which is next in rank

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\* Dulaure, ii. 142.

to his own: on a similar principle, the greatest chieftains of France, princes of the blood, and even kings themselves, when they could no longer support themselves by their respective vocations of governing and fighting, betook themselves to the profession of a highwayman as the next in dignity. Eudes the First, duke of Burgundy; another Eudes, brother to king Henry 1st; Philip, a son of king Philip 1st, and that monarch himself, are numbered among the high-born predecessors of Cartouche and Turpin. What was to them only an occasional resource, was to an inferior class of nobles their daily bread. Sometimes they sallied out, and waylaid pedlars on the highway, or pilgrims journeying with valuables to some sacred place: at other times they seized the peasants in the public market, stripped them of what they had, and detained them prisoners, or put them to the torture, to extort the disclosure of hidden treasure.

When Louis 6th, surnamed le Gros, the fourth descendant of Hugh Capet who filled the throne, and the first who was worthy of it, arrived at the age of manhood, the royal authority was at the lowest ebb. For many years of his life, he found full occupation in reducing his immediate subjects, the petty landholders of the royal domain, to a moderate degree of obedience. A description of the state in which he found that portion of France, may serve as a specimen of what must have been the condition of the remainder.

‘The rural counts, viscounts, and barons, who held immediately of the king, in the duchy of France, had availed themselves of Philip’s weakness to shake off his authority altogether, in the castles in which they had fortified themselves. From these castles they sallied forth and fell upon the travellers and traders (*marchands*) who passed within reach of their retreat, unless the latter consented to redeem themselves with a high ransom: they equally abused their strength against the monasteries, and against all the ecclesiastical lords. Sometimes they went and lodged with them, together with their squires, their soldiers, their horses, and their dogs, and required that the religious establishment whose forced hospitality they were enjoying, should defray the expense of their maintenance for months; sometimes they levied contributions in money or in kind, upon the peasants of the bishops or monks, as a compensation for the protection which these warriors promised to extend towards them. The barons, in particular, who were vassals of any ecclesiastical body, seemed to think that their vassalage itself gave them a title to the spoil of their clerical superiors.’—*Sismondi*, vol. v. p. 10.

Louis, who was not only king of France, but the immediate feudal superior of these freebooters, found himself not only no match for their united strength, but scarcely able to cope with the lord of a castle single-handed. He prudently limited



his first undertakings to the protection of the monasteries against the extortions of the nobility. By this means he obtained the sanction of the church, and the co-operation of the abbey troops, by whose aid he repressed the disorders of the principal Châtelains, and brought most of them into comparative subjection to his authority.

The names and designations of some of these worthies have been preserved to us. Hugh de Pompone, seigneur of Crécy, and châtelain of Gournay, infested with his depredations, not only the highway, but the river Marne, stopping passengers by land and water, and levying contributions. When attacked by Louis, this bandit was defended by his father, Guy count of Rochefort, and by Theobald count of Champagne. The fortress of Montlhéry, the patrimony and residence of a branch of the Montmorency family, was the retreat of a band of robbers, who desolated the whole country from Corbeil to Châteaufort, and interrupted all communication between Paris and Orleans. Hugh, seigneur of Puiset, a place situated not far from the road which connects Chartres with Orleans plundered travellers to the very gates of Chartres. Louis reduced his castle, and retained him for some time in confinement; but on his succeeding, by the death of an uncle, to the county of Corbeil, the relinquishment of this inheritance in favour of Louis was the price of his release. This lesson produced no change in his habits of life. No sooner was Louis occupied in another quarter, than he rebuilt, in violation of an express engagement, the fortifications of Puiset, seized the king's peasants in the public marketplace, and extorted sums of money by way of ransom.

But these were vulgar trespasses, hardly worthy of mention. It was reserved for Thomas de Marne, a baron of Picardy, to exemplify in its perfection the true greatness of villainy. "This seigneur," says the abbot of Nogent, quoted by M. de Sismondi,\* had, from his earliest youth, continually augmented his riches by the pillage of travellers and pilgrims, and extended his domain by incestuous marriages with rich heiresses, his relations. His cruelty was so unheard-of, that even butchers, who nevertheless pass for unfeeling, are more sparing of the sufferings of the cattle which they are slaying, than he was of the sufferings of men: for he was not contented with punishing them by the sword, for determinate faults, as people are accustomed to do: he racked them by the most horrible tortures. When he wished to extort a ransom from his captives, he hung them up by some delicate part of the body; or laid them upon the

ground, and, covering them with stones, walked over them; beating them at the same time, until they promised all that he required, or perished under the operation."

It was not until the twenty-second year of his reign, that Louis could subjugate this demon in human form. For eighteen years at least of this long interval, he continued his execrable mode of life; and might have continued it longer, had he not, when besieged in his castle of Coucy, been mortally wounded and taken prisoner in a *sortie*. "The king," says M. de Sismondi, "tried to induce him, in his last moments, to release the traders whom he had kidnapped on the highway; whom he kept in prison to extort a ransom, or tortured for his amusement: but even in the agonies of death Coucy refused all mercy, and seemed to regret the loss of dominion over his prisoners, much more than the termination of life." Thus perished Thomas de Marne. But his eldest son Enguerrand de Coucy trod faithfully in his steps; and succeeded in making head against the whole power of the king. After being vainly besieged in the castle of la Fère, he was taken into favour, and received in marriage a princess of the blood royal.

In 1109, says M. Dulaure,\* one of those horrible occurrences, so frequent in the annals of feudality, took place at the castle of la Roche-Guyon on the Seine. The lord of this castle, Guy de la Roche-Guyon, is praised by contemporary writers for renouncing the practices of his father and grandfather: "*Il était enclin à se conduire en homme probe et honnête, et s'abstenait de pillage et de vol:*" "*Peut-être,*" adds one author, "*se serait-il laissé aller aux habitudes de ses pères, s'il eût plus longuement vécu.*" This chief, whom the chronicler supposes to have died just in time to save his virtue, was assassinated by Guillaume his brother-in-law, who, with the aid of several knights, laid an ambushade in the chapel of the castle, and murdered Guy, his wife and children, and every other human being in the place. Had this been all, he might have retained the castle to the end of his natural life: but he was suspected by the neighbouring barons of being in an understanding with the English. They resolved to dislodge him. Being besieged in the castle, he opened the gates, stipulating for his life and liberty. It seems that some of the besiegers were not parties to the capitulation. Guillaume was massacred, together with the rest of the besieged: we are not told whether by those who had not engaged for his safety, or by those who had.

In this state was the royal domain, under the fifth of the

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\* Vol. ii. p. 136.



Capets. But enough of causes; it is time to look at effects. Of the seventy-three years which composed the reigns of Hugh Capet, his son, and grandson, forty-eight were years of famine; being two out of three. Of these famines, pestilence was almost a uniform, cannibalism a frequent, accompaniment.\* So much for the feudal system, and the perpetual civil war which was its consequence. In the long reign of Charlemagne we hear only of two famines; and even under the feeble Louis le Debonnaire, whose reign was disgraced by so many rebellions, there is only mention of one.† So much more destructive of security was feudal order, than what elsewhere goes by the name of civil war; and so endurable a thing is even despotism, compared with "liberty," when all the liberty is for a few barons, and the mass of the people are slaves.

In this country, it has been the interest of the powerful, that the abominations of the clergy in the middle ages should be known; and accordingly they are known. But it has not been the interest of the powerful in this country, that the abominations of the barons should be known; and consequently they are not simply unknown, but their authors are believed to have been patterns of the noblest virtues. The clergy were, in reality, by many degrees the less wicked of the two. They at all times administered better justice to their vassals, than the military chiefs; they at all times discouraged depredations and private wars. True it is, that in their eyes these were secondary offences; it was not for such crimes that interdicts and excommunications were sent forth: these were reserved for the man who married his fourth cousin, or who presumed to summon an ecclesiastic before a secular court. Robbery and murder were not, it is true, sins of so black a dye as the foregoing; they *were* sins, however, and, as such, were condemned. To the exertions of the clergy was owing the *truce of God*, one of the most curious traits in the character of the times. In a council composed of laymen and ecclesiastics, held in the diocese of Perpignan, it was resolved that three days and two nights in each week should be allowed to the nobles, to fight, burn, and plunder, under certain restrictions; by which concession it was hoped to induce them to suspend those recreations during the remainder of the week. This attempt to compromise with the vices of the times, was not, we are told, at first, altogether unsuccessful. But the compact was not adopted in all the districts of France, nor even in the royal domain; and as there existed no means of enforcing its observance, it fell every where

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\* Dulaure, ii. 154—160.

† Dulaure, i. 462.



into desuetude. It being thought that the time allowed for pillage was possibly not quite long enough, it was enlarged to four days and three nights, and at length to nearly six days and five nights; but the shortest intermission of mutual devastation was more than could be endured.\*

During the succeeding reigns, the power of the crown was gradually on the increase, and that of the great feudatories on the wane. Many of the most powerful fiefs became, by marriage or otherwise, integral parts of the English or French monarchies. The expulsion of the English from the north of France, by Philip Augustus, added their possessions to the royal domain; and the enfranchisement of the large towns, which uniformly allied themselves with the king against their old masters, enabled him to break the power of the feudal aristocracy. While this great change in the frame of society was going on, no improvement took place in the moral habits of the nobility. They continued to rob on the highway, and to quarrel and fight with one another, as before. Nor was it till long after the reign of Saint Louis, that the châtelains of France universally abandoned the profession of a highwayman. "Tels," says M. Dulaure,† "étaient les chevaliers du douzième et treizième siècle, dont la loyauté tant exaltée dans les romans, dans les compositions poétiques, et sur notre scène moderne, se trouve constamment démentie par l'histoire. Ces hommes auxquels on attribue tant d'exploits glorieux, tant d'actions généreuses et honorables, n'étaient que des brigands impitoyables, des misérables dignes de figurer dans les bagnes ou les cachots de Bicêtre. Je révèle ici une des nombreuses impostures de nos écrivains."

It is not asserted, that there were no exceptions to this general depravity. All which is contended for is, that the virtuous characters of those days were as much less virtuous than those of our own, as the wicked characters were more wicked, and that they were proportionally much more rare. Such is not the impression conveyed by the romances of chivalry; and it is the misfortune of modern writers, that they have mistaken the romances of chivalry for the history of chivalry. We shall be told, that romances are good evidence of manners. We answer with M. Rœderer:‡ of manners, yes: of the characters of their heroes, not at all. The romances of chivalry did not even profess to represent the knights as they were, but as they ought to be. What would be thought of a

\* Dulaure, ii. 152.

† Dulaure, ii. 343.

‡ See a recent work of considerable merit, intituled, "Louis XII, et François I." par P. L. Rœderer, ii. 252.

writer who should seriously infer, that in the time of Richardson the character of an English gentleman resembled that of sir Charles Grandison?

Even Mr. Hallam does not believe in the reality of knights-errant; of persons who travelled about, liberating captives, and redressing wrongs. But a romance must have a hero, and a hero must be a character to be admired. There never was a state of society (howsoever depraved) in which the character of a redresser of wrongs was not admired; on the contrary, it is admired in the direct ratio of the frequency of grievous wrongs. The romances of the east abound with good viziers: when the hero is a vizier, we may be sure he is always a good one: and how often does a good vizier arise? About as often as a good king: once in two hundred years.

One would expect to find the most admirable models of chivalrous virtue among those whose names and actions history has celebrated, and who were most admired by their contemporaries.\* In these respects no chevalier ever exceeded Richard Cœur de Lion. A few anecdotes, therefore, of his life, will go far to illustrate, not only the practical morality of the age, but moreover its theoretical standard of moral approbation. This mirror of chivalry is first introduced to our notice in the character of a rebellious and treacherous son, intrusted

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\* M. Dulaure admits, that there were some estimable men; but he finds them chiefly among the clergy. He mentions only one name among the barons; Charles count of Flanders, surnamed the Good. M. de Sismondi has given us some account of this personage; and a few anecdotes concerning the most estimable nobleman of his day, may not be uninteresting, as illustrative of the ideas of the times. He kept, we are told, three doctors of theology in his house, who, every night, after supper, read and expounded the Bible. He enacted severe laws against profane swearing, and was "marvellously severe and rigorous" in executing those which had already been enacted against witches and necromancers. He banished all Jews and usurers from his territories; declaring, in language oddly compounded of feudal and theological ideas, "qu'il ne les voulait souffrir jusqu'à ce qu'ils eussent satisfait et amendé le meurtre par eux commis du fils de leur seigneur." [Oudegherst, *Annales et Chroniques de Flandre*]. We are next informed of the precautions of this enlightened prince to obviate famine. These consisted in prohibiting *les cervoises*, (probably beer), destroying all the dogs and calves, and forcing the corn-dealers to open their granaries and sell their corn at a reasonable price. This last act of despotism brought on a quarrel between him and van der Strate, a great corn-dealer, and the head of one of the most powerful families in Flanders. In the course of the dispute, insulting doubts having been intimated concerning the title of the van der Strates to be considered of free condition, that family were so incensed at the affront, that they murdered the good count at the foot of the altar. His successor revenged his death by causing a hundred and eleven persons to be precipitated from a high tower.—Sismondi, v. 205—7.



by his father with the government of a province, and exciting that province to rebel. As duke of Aquitaine, we find him carrying off the wives and daughters of his principal vassals; and, after keeping them until he was weary of possession, giving them away in presents to his followers.\* When reconciled to his father, he turns round upon his former partizans, invades their territories, captures their towns, and loads them with exactions.† Again and again received into favour, again and again did he rebel. At length his father died, and he succeeded to the throne. His first act, in this new situation, was to place his father's treasurer, Stephen of Tours, seneschal of Anjou, in irons: nor did he release him until (says Roger de Hoveden) he had delivered up all the late king's money, and his own, to the last penny.‡

He appears to no greater advantage as a champion of the cross. It is related of him, that, when walking in the streets of Messina, he heard the cry of a hawk proceeding from the house of a peasant. A hawk, in England, was to plebeians a prohibited bird. Richard, forgetting that he was no longer in England, but in a country where the peasants had knives, and knew how to use them, entered the house, and took possession of the bird; but an assembled crowd speedily put him to flight. The same imperious temper and despotic habits soon after led him to commit a still greater outrage. A monastery, situated on the strait of Messina, appeared to him a convenient place for lodging his magazines: with him, to desire and to seize were one; he turned out the monks, and put a party of soldiers into their place. Disgusted at these and other acts of oppression, the inhabitants of Messina shut the gates upon Richard and his troops; a conflict ensued, and he forced his way into the place.§ Another anecdote, which is related of him while at Messina, is strikingly characteristic of his jealous and vindictive disposition. In the crusading army he had no rival in warlike exercises, except a French knight, named Guillaume des Barres. On one occasion, while the knights were exercising without the walls, an ass passed by loaded with reeds, which then, as now, were used in that country as vine props. They seized the reeds, and commenced a mock fight. Richard and Guillaume des Barres were opposed to one another. Their reeds were shivered at the first shock, but the reed of Guillaume tore Richard's cloak.

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\* Sismondi, vi. 36. See also p. 27.

† Thierry, *Hist. de la Conquête d'Angleterre par les Normands*. iii. 337.

‡ *Ibid.* iv. 30.

§ Thierry, *ut supra*, iv. 36.



This insignificant mischance provoked Richard to such a degree of fury, that he rushed upon his adversary, and strove violently to unhorse him. In this endeavour he was defeated, which inflamed his passion still more; he swore that he would be for ever the enemy of Guillaume des Barres, and was mean enough to require that the king of France should withdraw his protection from that knight, and banish him from Messina. Nor was it till long after, that, by the entreaties of Philip, aided by those of all the barons and prelates in the army, who placed themselves on their knees before him, he was prevailed upon to restrain his resentment during such time as he and Guillaume should both wear the badge of the crusade.\*

The conduct of Cœur de Lion, after the surrender of Acre, was even in that age remarkable for its ferocity. The garrison and inhabitants were to remain prisoners for forty days, at the expiration of which term, if not previously ransomed, they were to be at the mercy of the conqueror. Not being ransomed, they were, by Richard's order, put to death in cold blood.†

On his return to England, having laid siege to Nottingham, he erected a gibbet within sight of the walls, and hanged several men-at-arms whom he had taken prisoners, to strike terror into the besieged.‡

At a later period, we find him raising the wind in a manner truly royal, by turning off his chancellor, and declaring all the acts of that functionary null and void; obliging those whose titles were thus invalidated, to purchase valid ones, or forfeit their right.

We soon after find him swearing a truce with the king of France, and violating it immediately.§ Nor was this his last breach of faith. After resigning, by solemn treaty, the paramountcy of Auvergne to his rival the king of France, and even undertaking to aid him in enforcing the right against

\* Sismondi, vi. 101.

† *Ibid.* 112. It is worthy of remark, that the other great historical example of royal chivalry, the Black Prince, also caused several thousand persons to be massacred in cold blood at Limoges. The circumstance is related by Froissart, by whom it is disapproved. In the later period of chivalry, which has never been sufficiently distinguished from the earlier, increasing civilization had mitigated considerably the horrors of knightly vengeance.

‡ Thierry, *ut supra*, iv. 84.

§ *Ib.* 114. The words of an old writer on this occasion, are characteristic: The two kings, says he, after this truce, would no longer occupy themselves in war, but only in hunting, amusements, and doing evil to their men: *E en far tort à lor baros.*—"Choix des Poésies Originales des Troubadours," publié par Raynouard, tom v. p. 93, [*apud* Thierry, *ib.*]

the unwilling Auvergnats, he broke the treaty, and made an alliance with the Auvergnats against their new liege lord. He very soon broke his faith with them too, and concluding a separate truce, looked on quietly, and saw them subdued. The truce expired, and hostilities renewed between the two kings, Richard had the assurance to renew his correspondence with the Auvergnats, claim their performance of the engagement which he himself had violated, and exhort them to renew the war. They were too prudent to be again deceived; and the royal troubadour consoled himself by composing satirical verses upon what he termed their breach of faith.\*

But the reader has probably had enough of the "glory of chivalry." To be the glory of chivalry, indeed, nothing was necessary but the reputation of military prowess: a reputation founded upon achievements in war, and superiority in jousts and tournaments. The pomp and pageantry which adorned these exhibitions have captivated the imaginations, not only of contemporaries but of posterity; and when the imagination is gained, the reason, as experience shows, very seldom fails to follow. That the characteristics of a knight were undaunted courage and the most ardent desire of glory, is a proposition which has hitherto been taken for granted by the admirers, and hardly denied by the impugners of chivalry; and when we wish to say of any one that he is a pattern of all the military virtues, our expression is, that he is worthy of the age of chivalry. Now this proceeds, as it appears to us, upon a complete misapprehension. That courage and the love of glory were not uncommon among the knights, it would be absurd to doubt; since these are qualities which are never wanting, where there are dangers, and a public opinion. But that either quality was universal among them is the dream of a romancer; and we will venture to affirm, that there is more real courage in a single regiment of the British or French army in the year 1826, than there was in the whole chivalry of France or England five centuries ago.

We must not be misled by the great estimation in which military prowess was held. This is no proof of its universality, but the reverse. When particular examples of any virtue are extravagantly praised, it is a certain sign that the virtue is rare. It is pertinently remarked (we believe, by M. Dulaure), that there are at this day hundreds in the French army who possess all the heroic qualities which immortalized Bayard,† but who

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\* Thierry, *ut supra*, iv. 120.

† It may not be impertinent here to remark, that when Bayard lived, knighthood, in its original character, had long been extinct; that Bayard

are utterly unknown, precisely *because* there are so many. Thus it is that we continue to talk of the continence of Scipio; yet, what mighty matter did this continence amount to? He did not ravish a beautiful woman, whom the fortune of war had thrown into his hands. Now, if this be greatness, what subaltern officer, we were going to say, common soldier, in the British army, is not as great a man as Scipio? As a proof of Scipio's continence, the story is ridiculous; but, as a proof of the lawless and brutal incontinence of his contemporaries, this one anecdote, though it be but an anecdote, is worth a thousand volumes.

The ardour of the knights for military enterprises was indeed universal. But this ardour was no proof of exalted courage. Their military enterprises exposed them to hardly any danger. Cased in impenetrable armour, they could in general defy all attempts on life or limb; and the battles of chivalry, how destructive soever to the almost unarmed infantry, were rarely fatal to the men-at-arms. It might be, that a few knights were trampled on by horses, or crushed, in falling, by the weight of their armour. But if unhorsed, and at the victor's mercy, their lives were scarcely ever in any danger, except from private vengeance; it was neither esteemed dishonourable to give, nor to accept, a ransom; it was the law of war. To compare the courage of an average knight, with that of a modern private soldier, would be like drawing a comparison, for endurance of cold, between a man wrapped up in furs, and a barefooted and naked savage.\*

Trifling, however, as was the danger of their warlike enterprises, they always courted in preference the least hazardous even of these. In their hostilities with one another, we have already mentioned that it was their great endeavour, after devastating the country, to escape to their strongholds without

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himself had never received the *accolade*, but was a chevalier by birth, like most of the noblemen of his day; that he was not even called, during his life, the chevalier Bayard, but Captain Bayard, *le capitaine Bayard*: and that the title of *knight without fear and without reproach*, supposed to have been conferred upon him by the suffrage of his contemporaries as the peculiar reward of his eminent virtue, was in reality a common title of courtesy, shared with him by many other warriors of the time.—See the work of M. Rœderer, already referred to.

\* See an able chapter on chivalry in M. Rœderer's work. M. Rœderer, after quoting Mr. Hallam for the remark, that the battles of chivalry were an affair of very little danger, reproaches his countrymen with having suffered an Englishman to be the first man to whom this observation occurred. If he had read further, he would have seen that Mr. Hallam, though he made the remark, knew not how to apply it. We believe, that M. Rœderer himself is the first writer who has turned it to the proper account.



the risk of an engagement. They always preferred to encounter the inhabitants of the towns, who were destitute of defensive armour, and of whom they might hope to cut down thousands without the loss of a man. If, indeed, we look for real courage in the feudal times, we must seek it among those brave citizens, who did not fear, under such tremendous disadvantages, to face these terrible opponents in the field, in defence of all that they held dear. Among the few pages of the feudal annals which it gives pleasure to read, is that which records the glorious struggle which the burgesses of Flanders, forsaken and sold by their ally Edward 1st of England, maintained against Philippe le Bel and the whole chivalry of France. Thousands and thousands of them were cut to pieces ; but they triumphed !

The taste of the chevaliers for tournaments, and other warlike exercises, may be as easily explained as their love of military adventure. M. de Sismondi treats both merely as the resources of *desœuvré* savages to expel ennui. They sought excitement in the lists and in the field, as our German ancestors sought it by staking their liberty on the throw of a die. "Un esprit inquiet, un vague désir d'aventures, le besoin d'émotions, et l'espoir d'améliorer sa condition par la violence plus que par l'industrie, formaient alors le caractère de la noblesse Française."\* The following passage characterizes chivalry with equal vigour and accuracy. We give it in the original, because it is at the same time a specimen of the style of M. de Sismondi's work :

‘ Les paysans, les bourgeois, tous ceux qui travaillaient pour gagner leur misérable vie, qui se trouvaient sans cesse vexés, opprimés, insultés par leurs supérieurs, ne demandaient que le repos, et une sûreté que l'ordre public était loin de leur garantir : mais les nobles étaient, au contraire, dévorés par l'ennui, et souvent aussi aiguillonnés par la cupidité : leur esprit, qui n'avait reçu aucune culture, qui ne soupçonnait pas même les avantages de l'instruction, ne trouvait aucune ressource dans la solitude ou la vie domestique : toute occupation laborieuse ou lucrative leur était interdite, elle dérogeait à la noblesse, elle les assimilait à ces vilains qu'ils faisaient travailler comme des bêtes de somme et qu'ils maltraiétaient comme des ennemis. Les cours plénières, les tournois, les pas d'armes se présentent à notre imagination comme les divertissemens de cette noblesse brillante. Nous y voyons les riches récompenses décernées à la valeur, et nous oublions que même pour ceux qui pouvaient en jouir, huit jours de fête étaient achetés par une année de langueur et de solitude. Mais tandis que les serfs de chaque baron lui fournissaient le pain, la viande, peut-être la laine et le lin dont il

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\* Sismondi, vii. 108.

avait besoin pour sa consommation habituelle, il fallait qu'il achetât les armes, les équipages, les habits somptueux avec lesquels il voulait paraître aux fêtes chevaleresques, et lui qui ne produisait rien, qui ne vendait rien, il n'avait jamais de l'argent, il ne pouvait s'en procurer que par la rapine et par la guerre: la cupidité avait donc bien plus de part que l'amour du danger à cet empressement avec lequel il courait partout où il entendait le bruit des armes. *La cupidité et l'ennui étaient les deux mobiles de la noblesse*; la vanité concourait avec l'ennui pour entretenir cette passion pour les tournois que les excommunications de l'église ne pouvaient modérer; car Grégoire IX. avait de nouveau, le 27 Février 1228, frappé d'anathème ceux qui combattaient dans les *jeux de lance* (*hastiludia*) et soumis leurs terres à l'interdit. La cupidité et l'ennui conduisaient les gentilshommes Français partout où la vue du sang ruisselant réveillait l'âme engourdie, et où le pillage livrait au guerrier cet or qu'aucune honnête industrie ne pouvait lui procurer.'—*Sismondi*, vol. vii. pp. 122-3.

M. de Sismondi's two great *stimuli*, cupidity and ennui, were quite capable of leading them into danger, but it required another sort of qualities to bring them successfully out of it. As often as the demand for excitement and the demand for plunder brought a large number of them together in one enterprise, the same passions invariably hurried them into irregularities which put to hazard, if they did not frustrate, the success of the expedition. Their impatience of subordination made them regardless of discipline, and uncontrollable by the authority of their commander; their habitual thoughtlessness rendered them incapable of directing their own conduct, and they would not suffer it to be directed by any one else. Let the admirer of chivalry read the history of any enterprise of *real danger* in which they were ever engaged; of any of the crusades for example, more especially of the two last; let him mark, not only the rapine and cruelty, but the stupidity, the supineness, the headlong confidence, the incapacity of foreseeing and providing against the most obvious difficulties, which rendered their whole career one series of blunders and misfortunes. If he weighs all this, and moreover bethinks himself of the peculiar character of their warfare, by which even personal prowess was made to depend almost entirely on the steeds, the armour, and the bodily strength of the combatants,\* he must acknowledge that the far-famed knights of the middle ages were nearly as destitute even of the military

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\* 'Dans toutes les guerres du moyen âge,' says M. de Sismondi, 'on aurait pu dire que ce qu'on nommait bravoure était en raison inverse du vrai courage; celui qui par ses armes était le plus redoutable, était aussi celui qui risquait le moins.'—Vol. vi. p. 364.

virtues, in any extended sense of the term, as they were of all other virtues whatsoever.

So much for the "cheap defence of nations." Now for the "nurse of manly sentiment and heroic virtue."

The characteristic virtues of chivalry, according to Mr. Hallam, were loyalty, courtesy, and munificence. Its claim to these qualities has in general been allowed; and it has, on this foundation, been without further question admitted to have been the great refiner of manners, and purifier of morals. Is this notion well grounded, or not? Let us inquire.

If by munificence be meant, according to Mr. Hallam's definition, "disdain of money," meaning disdain of wealth, not only this quality did *not* characterize the age of chivalry, but the diametrically opposite qualities *did*. In no age was the thirst for plunder a more all-engrossing passion, nor the source of more numerous or greater crimes. But if it be only meant, that the wealth which was lightly got was lightly squandered; that the feudal chief was profuse in bestowing upon the instruments of his strength, or the ministers of his vanity or his amusement, gifts which cost him nothing but the groans of his bondmen, or the blood of those of his neighbour; the little value set upon wealth thus obtained, is only a proof how lightly the crimes by which it was purchased weighed upon the conscience of the offender. When all that had been got by one crime had been expended, what could be more obvious than, by another crime, to get more?

Loyalty is defined by Mr. Hallam to mean, fidelity to engagements. By courtesy, was meant, not only ceremonious politeness, but good feeling and good conduct towards each other, and particularly towards prisoners. Of both these qualities there were shining examples towards the conclusion of the age of chivalry. There was but little of either in the earlier period; and at no time were these virtues very commonly practised. While the feudal nobility retained their turbulent independence, no perfidy was thought too odious in order to gain an end, nor any abuse of power too flagrant when practised upon the defenceless. The treacherous devices which they employed to entrap one another, the horrid cruelties which they practised upon one another when entrapped, the assassinations which they sometimes perpetrated, sometimes (though more rarely) suborned, and of which the altar was not unfrequently the scene, are topics which we have already in some measure illustrated, and have not room to exhibit further. When one baron took a fancy to the wife of another, it appears, from several instances related by M. de Sismondi, that he made



no scruple of carrying off the object of his passion, and marrying her; so much for the loyalty, the courtesy, and we will add, the religion, of the times.\*

But when the greater barons ceased to be independent

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\* The mild and respectful treatment of prisoners, so universal in modern Europe, being in general ascribed to the refining influence of chivalry on modern manners, we quote from M. de Sismondi the following anecdote, which speaks for itself. The event related took place in the reign of our Henry the 1st, and was several years posterior to the first crusade:—  
 “Au commencement de l’année 1119, le roi Henri se vit encore abandonné par un autre de ses vassaux, sur la fidélité duquel il n’avait pas cru pouvoir concevoir un doute. C’était Eustache de Breteuil, à qui il avait donné en mariage Juliane, sa fille naturelle. Eustache profitant de l’embarras où il voyait son beau-père, lui avait demandé en don la tour d’Ivry, qui avait appartenu à ses prédécesseurs. Henri ne voulut pas s’en dessaisir; mais afin de donner au comte de Breteuil une garantie que cette tour ne serait jamais employée à lui nuire, il obligea Harenc (c’était le nom de l’homme qui en avait le commandement) à remettre, comme ôtage, son fils au comte de Breteuil, tandis qu’il se fit livrer à lui-même les deux filles que le comte avait eues de sa fille Juliane. Il semblait ainsi avoir établi entr’eux une garantie mutuelle, qui lui aurait répondu de leur fidélité, si la violence des passions, chez ces hommes féroces, avait pu être enchaînée, ou par les liens du sang, ou par le danger de leurs proches. Eustache de Breteuil, qui ne pouvait croire que ses filles courussent aucun danger entre les mains de leur grand-père, somma le gouverneur de la tour d’Ivry de lui ouvrir cette forteresse, s’il ne voulait pas que son fils fût livré sous ses yeux aux plus horribles tourmens; et comme celui-ci se refusait à perdre son château et à violer son serment, Eustache fit à l’instant arracher les yeux du jeune homme, et les envoya au malheureux Raoul de Harenc. Raoul vint se jeter aux pieds de Henri, et lui demander justice de l’outrage qui lui avait été fait sous la foi royale. La pitié pour un brave et fidèle chevalier, le ressentiment contre son gendre, l’emportèrent dans le cœur du roi d’Angleterre sur l’amour de son sang; il abandonna à la vengeance de Raoul ses propres petites-filles, qu’il gardait en ôtage, et auxquelles, par de terribles représailles, Raoul fit arracher les yeux et couper le nez. Le gouverneur d’Ivry annonça ensuite au comte de Breteuil que sa barbarie était retombée sur ses enfans, qu’ils étaient mutilés comme son fils l’avait été, mais que leur vie lui répondait encore de la vie de son fils, et que la tour ne lui serait point livrée. A la nouvelle de cette effroyable vengeance, le comte de Breteuil arbora les drapeaux de France, et commença à faire la guerre à son beau-père. Toutefois les habitans de Breteuil ne voulèrent pas le seconder dans sa rébellion; ils ouvrirent la ville à Henri. Juliane, qui s’y trouvait alors, n’eut que le temps de se réfugier dans la citadelle: elle y fut assiégée par le roi son père; les vivres lui manquaient, et elle fut bientôt réduite à offrir de capituler. Son père ne voulut lui accorder que des conditions honteuses: le pont qui unissait la citadelle à la ville, avait été coupé; le roi d’Angleterre ne permit point qu’il fût rétabli pour donner passage à Juliane. Il exigea qu’après avoir relevé ses habits au-dessus de sa ceinture, exposée au froid du mois de Février, à la vue et à la risée de toute l’armée, elle se fit dévaler avec des cordes du haut des murs, jusque dans le fossé plein d’eau, où il la fit reprendre.”—Sismondi, v. 139—141. This anecdote, as the reader will perceive, illustrates several features of the times at once.

sovereigns, and the smaller barons and knights to be subjects and retainers of those sovereigns ; when their exploits came to be performed in national armies, and their virtues and vices to be exhibited on a great theatre, exposed to the view of whole nations ; they then became, for the first time, amenable to a sort of *public opinion*. It is when individuals come under the influence of public opinion, that they begin to exhibit some glimmerings of virtue. But what kind of virtue ? This will depend upon the kind of public to whose opinion they are amenable. The only public to which the knights of chivalry were amenable, was a public composed of one another. The opinion which other classes might form concerning their conduct, was a matter of too little importance to them to be at all regarded.

The consequences of this situation well deserve to be traced. Though it is not true of every individual that his interest makes his morality, it is strictly true of every class of men. When a set of persons are so situated as to be compelled to pay regard to the opinion of one another, but not compelled to pay any regard to the opinion of the rest of the world, they invariably proceed to fabricate two rules of action ; one rule for their behaviour to one another, another rule for their behaviour to all persons except themselves. This was literally, strictly, what the chevaliers did. A chevalier was bound by the opinion of the chevaliers to keep his word with another chevalier, and to treat him, when a prisoner, with gentleness and respect. His own interest would prompt him to do so, if a man of common prudence ; since he could not know how soon he might be a prisoner, and might have occasion to be released upon parole, or promise of ransom. But we are not to suppose that it was necessary for a knight to fulfil his engagements with any one except a knight. Exactly as the profligate man of fashion of the present day will pay a gaming debt to the last farthing, though it leave him pennyless, while he internally resolves never to pay his tradesmen at all : so would a baron keep his word with another baron, and break his word, and his oath too, with a low-born *bourgeois*.

History, though conversant only with events upon a great scale, affords abundant evidence to bear out this assertion. Notwithstanding the rapacity and avarice of the barons, their profusion rendered them in general needy. The towns, which at first were part of their domain, amenable to their jurisdiction and subject to their arbitrary exactions, took advantage of their wants to purchase, among other privileges, that of having an administration of justice and a municipal government of their own. This was a concession which nothing but the most



pressing necessities could ever have extorted from those haughty superiors, and which they never afterwards thought of without resentment. No opportunity was missed of resuming the concession, and re-establishing their former supremacy over the town: retaining, however, the purchase-money of freedom. The pages of M. de Sismondi exhibit such numerous examples of this kind of perfidy, that it is impossible to suppose that it could have been considered at all disgraceful. Every privilege, in fact, which a town could succeed in wringing from the penury of its lord, was the commencement of a long struggle between the town and the *seigneur*; the *seigneur* struggling to get back his power, the townsmen to prevent him. If the lord succeeded, any new attempt to throw off his authority was called rebellion, and treated accordingly; for this also see Sismondi, *passim*.

King John of France, who was taken prisoner at Poitiers, is related to have said, that if truth and good faith had disappeared from the earth, they ought to be found on the lips and in the hearts of monarchs. This John, who was surnamed the Good, and who, if the anecdote be authentic, could talk in such magnificent terms about justice and good faith, had solicited and obtained from the pope, a few years before, for himself and his successors, a curious sort of privilege: it was that of violating all vows made and to be made, all oaths taken and to be taken, which they could not conveniently keep, *quæ servare commode non possitis*, commuting them for other pious works.\*

This John, who was a contemporary of the Black Prince and of Bertrand du Guesclin, and who lived, therefore, in the halcyon days of chivalrous virtue, had, it seems, but an indifferent opinion of the knights of his day. He accused the French knights of having become insensible to honour and fame: *Honoris et famæ, proh dolor! neglectâ pulchritudine.*† The same prince, on hearing the song of Roland, observed, *Il y a long temps qu'on ne voit plus de Roland en France*. An old captain, who was present, did not deny the fact, but threw all the blame of it upon the monarch himself: *On en verrait encore s'ils avaient un Charlemagne à leur tête.*‡ Deceived, like ourselves, by romances, even the chevaliers of that day looked back, it seems, with admiration, to the imaginary heroism of their forefathers. Yet this was the most shining period of the age of chivalry. It was also the last. A few years after, chivalry silently expired. The use of fire-arms became general. Cuirasses, as it turned out, were not bullet-proof. The chevaliers tried hard to render them so, by making them thicker and thicker,

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\* Dulaure, iii. 184.

† Rœderer, *ut supra*, ii. 251.

‡ *Ib.* 290.



heavier and heavier, till at last (says Lanoue) *Il n'y avait homme de trente ans qui n'en fût estropié.* \* Finding that all this would not save them from gunpowder, the cowards forsook the field, and abandoned the defence of their country and their liege-lord to hired soldiers—to plebeians.

Such was the age of chivalry. But to all our denunciations of the vices of that age, one glorious exception must be made. Either the whole testimony of history is false, or Saint Louis never violated his word, nor swerved from what he thought the dictates of his conscience. Historians have not done justice to Saint Louis. He has been pictured as a virtuous man, but a slave to priestcraft. Nothing can be more unfounded. His mind was strongly tinctured with the superstitions of the age; he conceived the deity not as an indulgent father, but as an irritable and jealous master; all this is true: but it is not true that he was priest-ridden; for he several times resisted not only his clergy, but the pope himself. † He followed the dictates of his own mind. His ideas of religious duty were his own; and every action of his life was governed by them. He thought it his duty to persecute, and he did persecute; he thought it his duty to be an ascetic, and he was an ascetic; but he also thought it his duty to keep his word, and he kept it inviolably; he thought it a sin even to retain what his predecessors had unjustly acquired, and he made restitution with the most scrupulous exactness. He was a perfect specimen of a mind governed by conviction; a mind which has imperfect and wrong ideas of morality, but which adheres to them with a constancy and firmness of principle, in its highest degree perhaps the rarest of all human qualities.

When we contemplate one who in so barbarous an age, and under all the temptations of power, although misled by a bad religion, did not make that religion a substitute for morality, but devoted himself to the fulfilment of his real duties, with the same earnestness as his imaginary ones, we admire even the power over himself which his austerities display; we lament the erroneousness of his opinions, but we venerate the man. Very differently are we affected by the religion which characterized the times. The knights and nobles of the day were as pious, many of them, as Saint Louis himself; but how different a piety! All his intolerance was theirs, without a spark of his virtue. When we read of their crusades, their pilgrimages, and their persecutions, we are apt, by a natural mistake, to speak of their *fanaticism*. But fanaticism is far too respectable a name.

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\* Rœderer, ii. 268.

† Vide Sismondi, viii. 102, and vii. 203, 309.

Fanaticism supposes principle : the notion of fulfilling a duty. *Their* fires were kindled not to fulfil a duty, but to escape from its fulfilment. They thought to strike a bargain with Omnipotence ; to compound for one crime by practising another. It was not from principle, but from mere selfishness, that they burned heretics, slaughtered Saracens, and plundered Jews. They imagined that he who sacrificed hecatombs of unbelievers to the God of mercy, was freed from every moral obligation towards his fellow-men. Never did their religion for a moment stand in the way of their passions. In sacking a town, neither priests, nor nuns, nor crosses, nor relics, were sacred to them.\* In their private wars, the church lands, being an easier prey, were even less respected than those of one another ; nor were their devastations restrained by that excommunication which encroachments upon that species of property invariably entailed. But they had been taught that by giving way to their darling passions, their avarice and cruelty, against the miscreants who denied the faith, they atoned for the indulgence of the same passions against the true believers. The publication of a crusade, especially against the emperor or the Albigenses, was commonly accompanied by an offer to the champions of the cross, of—what ? Remission of all sins, past and future, in the other world, together with permission to rob their creditors in this. They were exempted, during the crusade, from the payment of interest on their debts. The cunning priests, who added this earthly recompense to the heavenly one, knew well the sort of persons with whom they had to deal. That some of the crusading knights were mainly influenced by motives of religion, is as true, as that some were influenced by the desire of military glory ; but the great bulk were influenced by nothing but M. de Sismondi's "*deux mobiles de la noblesse*," cupidity and ennui.

There is one feature in the chivalrous character which has yet to be noticed ; we mean, its gallantry. And this we shall think it necessary to examine the more fully, because we are persuaded that nine-tenths of the admiration of chivalry are grounded upon it. We own it is hard to speak ill of men who could make vows to their lady-love that they would wear a scarf over one eye till they should have signalized her charms by some exploit, or who could leave the ranks and challenge one another to single combat, to settle which man of them adored the most beautiful mistress. We trust, however, that without treason to the fair sex, of which we profess ourselves devoted admirers, it may be

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\* See, among innumerable other examples, the description of the sacking of Strasburg, in Sismondi, iv. 128.



permitted to doubt whether these fopperies contributed much to the substantial happiness of women, or indicated any real solicitude for their welfare. To us it seems very clear, that such demonstrations of eagerness, not to make a woman happy, but to make the whole world acknowledge the pre-eminence of her charms, had their source in mere vanity, and the love of distinction; and that the knight who fought a duel concerning the beauty of his mistress, because she was *his* mistress, would have done the same thing for *his* falcon, if it had been the fashion.

If it could be proved that women, in the middle ages, were well treated, it would be so decisive a proof of an advanced stage of civilization, as it would require much evidence to rebut. That they were so treated, however, is not to be believed without proof. That a knight prided himself upon the beauty of his mistress, and deemed his honour concerned in maintaining it at the sword's point, is no proof. In the Asiatic kingdoms, in which, above all countries in the world, women are not only practically ill-treated, but theoretically despised, the whole honour of a family is considered to be bound up in its women. If their seclusion is intruded upon; if the foot of a stranger profanes the *zenana*, the disgrace is indelible. This is one species of foppery: the gallantry of the middle ages was another: and, like the ceremonious politeness which distinguished alike the chevaliers and the orientals, they characterize that period in the progress of society, which may be termed the age of false refinement, and which is situated half way between savage and civilized life.

Good treatment of women, we have already observed, is one of the surest marks of high civilization. But it seems to be very little considered, in what good treatment of women consists. It does not consist in treating them as idols to be worshipped, or as trinkets to be worn for display; any more than in shutting them up like jewels in a case, removed from the light of the sun and the sight of men. In both cases, this treatment is a proof that they are valued; else why are so much pains taken about them? But in both cases they are valued exactly like beautiful trinkets; the value set upon them is quite compatible with perfect indifference to their happiness or misery.

Professor Millar, perhaps the greatest of philosophical inquirers into the civilization of past ages, has observed, with truth, that during the savage state, when the attention of men is wholly engrossed by the pursuit of the necessities of life, the pleasures of sex are little regarded, and little valued; but as soon as the satisfaction of their more pressing wants gives leisure to



cultivate the other enjoyments within their reach, these pleasures are among the first which engage their attention. If the savage state is, of all others, that in which the sexual passion is weakest, the half-savage state, or the state immediately bordering on barbarism, is that in which it is strongest: This remark explains the treatment of women in feudal Europe, as well as in Asia, different as their condition in these two states of society may appear. In Asia, where food could always be obtained with comparatively trifling labour, and where very little clothing and lodging were necessary either to existence or to comfort, the savage or hunting state seems never to have existed; the pleasures of sex were probably cultivated from the beginning, and, man abusing his natural superiority, the women were made slaves. In Europe, on the contrary, as among the North American Indians, women were not valued as sources of pleasure, and were not valuable for the labour of hunting, in that state of society the only kind of hard labour. No motives, therefore, existed for reducing them to bondage; and when these barbarians over-spread the Roman empire, and, possessing themselves of the land, began to lead an idle life instead of a laborious one, this new state of society found the women free. From this circumstance arose the different situation of women in Asia and in feudal Europe. In the latter, where they were free, to obtain the woman who was the object of desire became often a matter of extreme difficulty, and generally could not be effected without her own consent: in the former, where they were slaves, to obtain any number of women independently of their consent, became, to a rich man, a matter of no difficulty at all; and his solicitude was transferred to the means of keeping them.

We thus see that the seclusion of women in Asia, and the idolatry of them in Europe, were both marks of the same low state of civilization. The latter, no doubt, gave to some women for a time more power. But we must not overrate the value of this power to their happiness. The question is not, how much power a knight would give his mistress leave to fancy she exercised over him, in order that she might consent to his obtaining power over her; but in what manner *he* employed his power over her when obtained. Of the domestic lives of the knights, we have hardly any direct information; and in the absence of any, we may proceed upon the general presumption, that men who were brutal towards one another, would not be less brutal towards their wives. Allowing that a woman who had been an object of desire, and who was still a source of vanity from her personal charms, might command tolerable treatment on account of those charms, while they lasted, and on account of her children at a

later period; we profess ourselves not to be of the number of those who sympathize exclusively with beautiful women. Although the heroines of romances were somehow always beautiful, it may yet be inferred, from the inherent probability of the thing, that there were ugly women in those days as well as in our own; though we are left to conjecture what sort of treatment may peradventure have been undergone by such ill-fated females, if any such there were. A knight who had to maintain at the point of the sword, that his lady was the most beautiful lady in the whole world, would, in common prudence, attach himself to some fair one, whose pretensions to that character might be maintained without subjecting him to any extraordinary degree of ridicule. We know, in point of fact, that a small number of beautiful women engrossed all the admiration and all the vows of all the knights, and that the large and unattractive majority were altogether neglected. It is the treatment of them, however, and not that of their more attractive sisters, which is the test of civilization.

There is positive evidence, how little regard was paid by a warrior of the age of chivalry, to the feelings even of the object of his passion, when he had the power of gratifying that passion independently of her consent. If a baron happened to be smitten by the charms of the daughter of one of his vassals, he demanded of her father, as a matter of course, that she should be yielded up to his embraces.\* The frequency of rapes and abductions, even in the case of women of elevated rank, is another important proof how little connection the foppish gallantry of that age had with the real happiness of the sex affected to be adored. We have mentioned in a former page the chivalrous treatment of the Gascon ladies by Cœur de Lion. Matilda, daughter of Malcolm 3rd king of Scotland, while residing in England previously to her marriage with our Henry 1st, is well known to have taken the habit of a nun, "not," says Hume, "with a view of entering into a religious life, but merely in consequence of a custom, familiar to the English ladies, who protected their chastity from the brutal violence of the Normans, by taking shelter under that habit, which, amidst the horrible licentiousness of the times, was yet generally revered."†

We reject the giants of romance; why should we continue to

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\* See, for example, the account of the birth and parentage of William the Conqueror, in Sismondi, iv. 240. The story is curious, and characteristic of the times. It resembles an anecdote related of the Anglo-Saxon king Edgar.

† Hume, i. 318. See, in Dr. Henry's History of Great Britain, vi. 347, the remarkable words of a great council of the clergy on this occasion.



believe in the reality of the knights-errant, their antagonists? Yet if both are the representatives of really existing personages, let us remember that the knights who liberated imprisoned damsels were few, while the giants who held these damsels in durance were many; and that the prototypes of the giants were knights and noblemen, though they were not knights-errant.

Though it is almost unnecessary to add, that whatever portion of power or good treatment the women enjoyed, was confined entirely to the women of rank, and that all other women were, like their husbands, slaves; we will, however, conclude our observations on this subject, by a very sensible passage from M. Rœderer's work, already alluded to, in which this as well as some other very pertinent observations are forcibly put. The age of chivalry, he says,

‘Fut pour les femmes, ainsi que les hommes, une période d’abjection et de malheur. Ne regardant pas le bonheur des seigneurs qui opprimaient la nation comme partie du bonheur de la nation, ou comme une compensation de son malheur, je ne compte pas non plus la gloire des *châtelaines* dans le bilan des femmes Françaises du même temps. Celles-ci vivaient dans l’oppression comme leurs pères, leurs maris, leurs enfans. On pourrait même contester à ces dames de château, qui brillaient de tant d’éclat sur les amphithéâtres d’un tournoi, qui étaient pour la confrérie des chevaliers l’objet d’un culte religieux et d’une adoration solennelle; on pourrait leur contester un bonheur correspondant à de si belles apparences, et demander si cette idolâtrie qui leur était vouée, n’était pas une des pompes de la grandeur de ces temps-là, l’ostentation intéressée d’une courtoisie profitable, ou l’exagération d’une servilité réelle sous des apparences passionnées; et si, dans l’intérieur de la société domestique, les grandes dames n’étaient pas exposées comme les autres à toute la rudesse d’une domination sans frein?’—*Louis XII. et François I.* vol. i. p. 297.

We have dwelt so long upon the period of the feudal aristocracy, that we have not time to give a detailed character of the feudal monarchy; and perhaps it will be better, before attempting the task, to wait for the additional materials which we may expect to find in the next portion of M. de Sismondi's history. We shall content ourselves with mentioning a few facts, merely to show that the aristocracy did not change its character during the two or three centuries which followed its subjugation by the crown.

Enguerrand de Coucy, having seized two young noblemen, who, with their preceptor, had trespassed on his forests in pursuit of rabbits, hanged them all three. In the reign of any other prince than Saint Louis, he might possibly have come off with impunity. Saint Louis at first intended to put him to death, but at the intercession of all the great barons, he con-



tented himself with imposing a heavy fine, and three years exile in Palestine, with the forfeiture of the seignorial rights of *haute justice*, and *garenne*: of keeping rabbits, and of judging men.\*

Guy de Montfort assassinated Henry, son of Richard duke of Cornwall, before the altar, at Viterbo.†

Saint Louis besieged the castle of La Roche de Gluy upon the Rhone, to punish its lord for practising robbery on the highway: having made himself master of the castle, he restored it to its owner, first stipulating for the discontinuance of his depredations ‡

The next person of whom we shall make mention is Amalric, viscount of Narbonne, who, having the *droit de justice*, violated the laws, and, what was of more consequence, offended the monarch, by putting to death two of his own vassals, notwithstanding their appeal to the royal court. Amalric's sovereign was far from being a Saint Louis; he imprisoned the rebellious vassal for a time, then took him from prison and put him at the head of an army.§

Jourdain de l'Isle, *sire* (seigneur) of Casaubon, after receiving the royal pardon eighteen times for different offences, was hanged the nineteenth for rape, rapine, and murder. This happened under Charles 4th, in 1323.

Hannot and Pierre de Léans were hanged in 1332, for assassinating la demoiselle Péronne d'Estreville in the church.

Mathieu de Houssaie was condemned to a gibbet in 1333; Jourdan Ferron, a *damoiseau* or page, in the same year. In the following year eleven nobles were executed (*suppliciés*) for the assassination of Emeri Béranger.

Adam de Hordain, another knight, was hanged in 1348, and so on.|| It was not till the climax of the power of Louis 14th, that the nobles were reduced into perfect obedience to the laws.

As the king's government, however, increased in strength, assassination became too dangerous to be openly practised, and a safer mode of taking vengeance upon an enemy now came into vogue. Accusations of poisoning became frequent, and gained general credit. The imperfection of the courts of justice, and the peculiar nature of this crime, generally prevented the fact from being judicially proved; but the generality of the suspicion is a sufficient proof of the spirit of the times. Another mode of getting rid of an enemy was suggested by the superstitions of the day. The practice of enchantments, for the

\* Sismondi, viii. 98.

† *Ib.* 219.

‡ Dulaure, iii. 54.

§ Sismondi, ix. 412.

|| Dulaure, iii. 260.

destruction of particular persons, became very frequent. The efficacy of these operations was imaginary, but the intention was real. Waxen images, says M. Dulaure, play a very conspicuous part in French history. A waxen image was constructed, as nearly as possible resembling the person intended to be destroyed; a priest was employed to baptise the image by the name of the intended victim, and it was then tortured, mutilated, or pierced through and through, with the proper forms of incantation. The effect of the operation thus performed upon the image, was supposed to be felt by its human namesake in his own person.

The gradual disuse of trial by battle, which was abolished by Saint Louis in his own domains, and discouraged every where, both by him and his successors; the substitution of technical procedure in the king's court, and the gradual supercession of the seignorial jurisdictions by the royal ones, gave rise and encouragement to another sort of crime, judicial perjury. This, which is perhaps the most pernicious of offences, because it destroys the efficacy of the remedy against all others, and the frequency of which is, for that and other reasons, one of the most decisive tests of the moral depravity of a nation, became, if we may credit historians, horribly frequent. Corruption in the judges also became a common offence.\*

When the nobles no longer enjoyed any power of their own, except over their serfs and domestics, they had no chance for importance but by resorting to the court, and rivalling with one another in magnificence and servility.† The means of magnificence had to be squeezed out of their vassals, whose situation consequently became more miserable than ever.‡ The same cause brought about a considerable change in the manners of the nobility. No longer permitted to seek excitement in private wars, they sought it in the licentiousness of a court. Intrigue took the place of rape, as poisoning had done of assassination. The manners of the later period of the age of chivalry, and of the age which immediately succeeded it, as they are pictured in Brantôme and other works of his day, were dissolute to a degree never since equalled. Nor did their

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\* See Dulaure, iii. 243, for a remarkable instance. See also Sismondi, ix. 195. "Le siècle," (says he) "dont nous faisons l'histoire, est celui de la plus grande corruption de l'ordre judiciaire; il n'y a pas un des procès intentés sous Philippe le Bel, qui ne porte des marques intrinsèques de faux témoignage."

† See a striking instance of their servility even as early as the reign of Philip Augustus.—Sismondi, vi. 154.

‡ Sismondi, viii. 428. He compares their condition to that of the subjects of Turkey.

debauchery resemble the refined gallantry of the court of Louis 15th ; it was coarse and gross to a degree of which even the language of Rabelais is hardly an exaggeration. To sum up all in few words : when the vices of a highwayman ended, the vices of a courtier began.

We had intended to quote some striking anecdotes of the times ; such as the expedition of the *pastoureaux*, the destruction of the Templars, the pretended conspiracy of the lepers to poison the fountains and subvert Christianity : and to have sketched the persecutions of the Jews and of the Albigenses, and the still more extraordinary persecution of the mendicant Franciscans, for offending the pope, by denying that their meat was their own at the moment when they were putting it into their mouths. But these, and innumerable other interesting facts, which M. Dulaure and M. de Sismondi have recorded, we must content ourselves with exhorting the reader to gather from those authors themselves. Both works are as delightful in style, as they are important in matter. The manner of M. Dulaure is characterized by extreme neatness and exquisite simplicity, and carries the reader along with it, by its deep earnestness, and high tone of moral feeling. To one who is daily sickened by the repulsive tone of heartless levity, and recklessness about good and evil, which is one of the besetting sins of our own literature in the present day, this quality of M. Dulaure's work renders it peculiarly attractive.\* M. de Sismondi's style is more diffuse, but almost always sprightly, and frequently eloquent. His eloquence, however, flows naturally from him ; neither he nor M. Dulaure is infected by that rage for fine writing, which is the bane of all real eloquence ; they never declaim, never hunt after common-place metaphors, but speak the plain and unaffected language of men who wish that the reader should think of their ideas more than of themselves.

There is little appearance in M. Dulaure's work of a generalizing, that is, of a philosophical, mind : he states the facts as he finds them, praises and censures where he sees reason, but does not look out for causes and effects, or parallel instances, nor applies the general principles of human nature to the state of society he is describing, to show from what circumstances it became what it was. It is true he does not profess to be a historian, but only to sketch a *tableau moral*. M. de Sismondi aims much more at generalization ; and the reflections with which he

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\* It is a quality, however, by no means peculiar to M. Dulaure ; several other French writers of the present day are distinguished by it in an equal, perhaps in a still greater degree. M. Rœderer, in the work in which we have had occasion to quote, is a striking example.



frequently commences his chapters, exhibit far more of the genuine philosophy of history, than is to be found in any other work on the middle ages (those of Professor Millar excepted) with which we are acquainted.

The badness of those ages will now be thoroughly understood by a large class of readers in France. In this country, we cannot hope that it will be comprehended as yet. There is no popular book on the middle ages in our language; nor any book in which the truth is plainly and fully told concerning chivalry and its times. Millar's *Historical View of the English Government*, though admirable as far as it goes, is rather a history of institutions, than of morals and manners; and when it does touch upon the latter, is not detailed enough to give any thing like a vivid conception of the times. The design of the work, moreover, is confined to our own country. Yet he is almost the only writer we have, who has made the middle ages a subject of philosophical investigation. There is, indeed, Mr. Hallam; but we should be much surprised if the nation which has produced a Millar, could admire or read the "*History and Government of Europe during the Middle Ages.*" This work appears to us equally faulty in the design and in the execution. In the first place, the design is fundamentally bad. The work is neither a history of Europe, nor a history of European civilization. Considered as a history of Europe, it is the most meagre of abstracts. Conceive an attempt to write "the history of France from its conquest by Clovis to the invasion of Naples by Charles 8th," in one chapter of ninety-nine quarto pages! It is evident that nothing worth relating of the history of France could be included in that compass: it is not a historical sketch, but a chronological table, or the table of contents to a historical work; and it is long since we remember to have read ninety-nine duller pages. If, on the other hand, the work was intended to be a history, not of Europe, but of its civilization, why encumber it with several hundred pages of tiresome and useless narrative? Even in the dissertations, which compose the remainder of the work, we cannot help seeing much more of pretension than of real merit. Mr. Hallam is not wanting in liberality; his leanings are in general towards the side of the many; his incidental remarks are frequently pointed in expression, and occasionally soar somewhat above the level of commonplace. But he has neither discernment enough to see through any reigning error, nor philosophy enough to trace the causes and consequences of the things which he describes; but deals out little criticisms and little reflections, and little scraps of antiquarian lore, which neither throw any light upon the condi-

tion of mankind in the middle ages, nor contribute either to support or illustrate any important principle : in fine, he has succeeded in rendering a sketch of one of the most remarkable states of society ever known, at once uninteresting and tiresome. The best part of his work is that which relates to our own country. In this part he must be allowed the merit of having resorted to the original authorities, and established several interesting points of constitutional history. But considering him as a historian of the middle ages, we are compelled to pronounce his work an utter failure. Its want of merit is rendered still more striking, when compared with the merit of other writers. To appreciate Mr. Hallam, it is not even necessary to have read Millar; it is sufficient to have read Sismondi.

ART. V.—*Anne Boleyn; a Dramatic Poem.* By the Rev. H. H. Milman, Professor of Poetry in the University of Oxford. 8vo. Murray. London. 1826.

**EVERY** one who attempts to inculcate the belief that bigotry is the certain harbinger of misery, endeavours at least to render an important service to his fellow men, and, for this attempt, whether successful or not, he may justly lay claim to some approbation. Mr. Milman has written the poem now under consideration, for the express purpose of depicting some of the many miseries inflicted on mankind by intolerant fanaticism. To the praise of benevolent intentions he is, therefore, justly entitled, but we fear his claims can extend no further: for, however laudable may be the spirit in which his poem is written, the poem itself deserves little admiration. It unfortunately possesses attractions for no class of readers. It exhibits no powerful delineation of character; no moving pictures of individual misfortune; no faithful and vivid description of human passion; but is at best a cold and languid dialogue, that will be read without emotion, and incontinently consigned to that oblivion which inevitably awaits it. We came to this conclusion with great reluctance; for the candour and benevolence of Mr. Milman can excite nothing but good feeling towards himself, and must render it a painful task to give an unfavourable judgment of his works.

Mr. Milman has chosen, we know not why, a dramatic form for his work without any intention of writing a drama. He has thus precluded the possibility of using poetry with propriety; but has endeavoured, notwithstanding, to write a poem. His work is, in consequence, neither a good poem nor a good play,

Thus to jumble together poetry and the drama, shews an utter misapprehension both of the proper aim of a dramatic writer, and of the means by which that aim can be attained. The end is, to excite emotion by a representation of the emotions of others; to call up our sympathies, to raise our hopes and fears, by a representation of the hopes and fears, of the joys and miseries of other men. But to render this representation effective, it must be true to nature; it must be a correct imitation of the actions and language of mankind in the drama of life; a faithful exhibition of human passion; the language of real joy and sorrow.

A play, it must be remembered, is composed entirely of what men say and do: it is not a *relation* of actions, but the actions themselves. From hence originates a most important distinction between a poem and a play. The language of poetry is not the language of real life: it is real life, however, that the dramatist must pourtray. He must write as men would speak, and must vary with the variations of time, and place, and character. The thoughts his characters utter, must be the thoughts of men in such situations; and the language in which they are expressed must be the language in which such men would express them. The poet and his characters are separate persons; they have no connexion one with the other, and should invariably be kept carefully distinguished.

A poet in his own proper character is not confined to this strict delineation of life. As a poet, he may call all the charms of fancy to his aid, may display every beauty of his brilliant and fascinating art; but, as a dramatist, never. In real life, more particularly when under the influence of violent emotions, men are never poetical. A man, for instance, in the agonies of death, is not very likely to indulge in a trope; nor a thief or a murderer to pause in the perpetration of his villainy, to enunciate a well-turned and elegant simile. It has never been our fate to hear a woman in sorrow liken herself to a fountain, or any other water-dropping thing in nature; nor a disconsolate widow point out the resemblance between a spouseless doe's condition and her own; nor any similarity whatever between the antlered partner of her prototype, and her own departed lord. We never have had the fortune, good or bad, to know any lady

‘ Who plighted to a noble youth her faith  
When she had given her honour to a wretch ;’

but we will take upon ourselves to say, upon the knowledge a few years' experience of human nature has given us, that no lady, upon such an accident being discovered, would ever think



of poetically comparing herself to a ship in a storm. Such things may be found in our plays, though never heard of in life. Calista's despair and horror prevent not her poetizing; in the extremity of her grief she exclaims,

'Is it the voice of thunder or my father?  
Madness! confusion! let the storm come on;  
Let the tempestuous roar drive all upon me.  
Dash my devoted bark, ye surges break it!  
'Tis for my ruin that the tempest rises;  
When I am lost, sunk to the bottom low,  
Peace shall return and all be calm again.'

Such conceits may amuse but cannot excite sympathy. We may admire the melody of the versification, and praise the *poet* for producing it, but we cannot pity the woman. Rowe, not Calista, claims our attention. Images like these might occur to his mind; none but an undisturbed imagination, however, would suggest the resemblance. Grief, like Calista's, would be too engrossing to permit such excursive flights of fancy. She might vent her griefs in complaining, but her complaints, though dolorous, would not be poetical. Were they so, we should immediately suppose her an impostor.

By our dramatists, however, this obvious principle has been utterly neglected. All nature has been ransacked for images to trick out and embellish their language with poetical figures; and the personages, in consequence, speak such fine verses, that it is with great difficulty we avoid believing them all poets by profession. Shakspeare, even, who is so much the object of our adoration, that it is dangerous to suppose that he can err, often deviates thus from nature. Even he drags in poetical ideas on every occasion, no matter how unsuitable, and consequently spoils the effect of some of his most beautiful scenes. No man has yet equalled the harmony, force and simplicity of Shakspeare's *style*. He has hit the happy medium between poetry and prose; his language has all the beauty and cadence that belong to verse, while, by its ease and simplicity, it appears the common language of life. Few of our other dramatists, however, permit us to say so much in their favour: with most of them, men are made to rave by rule, and be miserable in the prettiest melody the author's ear and vocabulary could furnish. They appear to be of Mr. Puff's opinion, and "are not for making slavish distinctions, and giving all the fine language to the upper sorts of people." Princes or waiting-maids, they are all equally fine. The servant talks like his master, and his master like a poet. It would not be more incongruous for a painter to represent his majesty's coachman, or master of horse in the

same costume as our gracious sovereign himself; nor for a dramatist to conceive our venerable monarch spouting one of the laureate's odes to his valet de chambre.

We have often been surprised that this species of false taste had not long since been corrected; for it cannot have escaped the observation of any one who has frequented a theatre, that the parts most tiresome to the audience, most painful and difficult to the actor, are always precisely those in which the author has been most poetical. The grand object in the representation of a play being illusion, being to persuade the audience as much as possible that the spectacle they are witnessing is no spectacle, but reality, every thing that tends to dissipate this illusion, that recalls us to ourselves, that brings the actor, the poet, and the pageant back to our recollection, defeats the very purpose of the drama. Measured pomp of language—language which men in such situations would not use—which bespeaks the poet and not the character, breaks the desired spell, and checks every emotion we should experience were we under its influence. The actor finds it difficult to avoid appearing a spouter of poetry, and the audience find it impossible to avoid losing their patience, and are but too apt to visit on his head, the sins of the poet; blaming the unfortunate Mimes for imitating nature abominably, much in the style of a person who should find fault with Mazurier for looking unlike a man, when dressed like a monkey.

Mr. Milman, disregarding, or being ignorant of these principles, has chosen to write what he calls a dramatic poem, and has succeeded in producing something as much like nature, as the perambulating exhibitions of Mr. Punch's adventures. It matters nothing whether the poem be intended for the stage or not. It was not, we suppose, Mr. Milman's intention merely to show what fine verses he could write, but to exhibit his power of depicting human passions.

By adopting the form of a play, Mr. Milman discarded the powerful assistance of narrative and description; he lost the opportunity of speaking in his own person; of pointing out those minute, and characteristic circumstances that give life to the picture; and of fixing it in the imagination, by apt and forcible illustrations. He obliged himself to depend wholly on the dialogue, the merit of which could only consist in its suitability to the characters represented, and to the situations in which they are placed; in short he has trusted to his power of giving a faithful, yet striking imitation of life. He has thus, unwarily we think, undertaken an arduous task; a task, too, rendered still more difficult by the complete absence of every thing like a good model. Mr. Milman's is not a mind bold and

powerful enough to strike out a path for itself: he will labour, and perhaps with success, where others have laboured successfully before him; but to change and correct the public taste is a work far beyond his capacity. The work before us gives no indication of any such ability. Neither the plot of the drama, nor the characters which compose it, nor the language in which it is written, bespeak a man who has attentively studied the subject of dramatic composition; certainly not one who has studied it with advantage. The plot is without interest, the characters are common-place and feebly drawn, and the language throughout is rhetorical, pointless, and unimpassioned.

The incidents and characters of the poem are for the most part taken from history: the manner, however, in which the catastrophe is brought about, is of the author's own imagining; and the main mover of the plot is a fictitious character. Anne Boleyn, the heroine, is represented as a paragon of virtue, condemned to death by her husband, through the machinations of Angelo Caraffa, an Italian jesuit, who is a devout catholic, conscientiously believing that any enormity may be committed for the good of the church. In the preface, however, the author says,

‘In endeavouring to embody that awful spirit of fanaticism—the more awful because strictly conscientious—which was arrayed against the early reformers, I hope to be considered as writing of those times alone. The representation of the manner in which bigotry hardens into intolerance, intolerance into cruelty, and an infringement of the eternal principles of morality, can never be an unprofitable lesson. The annals of all nations in which reformation was begun or completed, those of the League in France, of the Low-countries, and Spain, as well as of England, will fully bear me out in the picture which I have drawn; but I have no hesitation in asserting, that even in those times, the wise and good among the roman catholics reprobated, as strongly as ourselves, the sanguinary and unprincipled means by which the papacy was obtained.’

This is a striking evidence of the author's candour, and liberality, and is moreover a most important admission in favour of the rival sect. This Caraffa, who is the subject of these observations, plots against the life of Anne Boleyn, believing her to be the main prop of the Protestant faith; and suborns lady Rochford, the wife of Anne's brother, to poison the mind of the king with calumnies against her fidelity. The king's anger at length breaks out, Anne is imprisoned, and, as is usual in such cases, witnesses are sought after to swear to whatever facts may most conduce to her conviction. Caraffa persuades Smeaton, one of his “own poor unworthy flock,” and the queen's musician, that



the only mode to save his mistress from punishment is—to swear *that she is guilty*; and the said Caraffa has art enough, it appears, to make Smeaton believe that Anne will be wonderfully obliged to him for this little piece of service; and that when divorced *she will marry him as a reward for his benevolence*. Smeaton upon this swears according to the dictation of his reverence,

‘That they have done together that foul sin  
That taints the lips to speak, the heart to think on.’—p. 102.

The queen is, on this evidence, condemned with three others, against whom no evidence can be found; and Smeaton is hanged as a reward for his credulity.

A comparison, very unfavourable to Mr. Milman, involuntarily suggests itself, between his Anne Boleyn and Voltaire’s admirable tragedy of Mahomet. Mahomet was written with the same benevolent intention as Mr. Milman’s work, but with this difference as to the result, that it completely fulfilled that intention. Voltaire possessed not only a profound knowledge of the principles of dramatic composition, but was also deeply versed in the mysteries of the human mind. He well knew how to enlist the feelings of mankind in favour of the cause he advocated, and fortunately that cause was always the cause of benevolence: he could rouse every emotion of pity, of contempt, and of horror; could irresistibly impel us to execrate the ambition of the cruel impostor, and to mourn over the ignorance that enabled his villainy to succeed. Fanaticism, as he describes it, is truly appalling; it appears the almost necessary consequence of ignorance and credulity, and ignorance and credulity are unfortunately the lot of by far the greater portion of mankind.

When Seide is tempted by Mahomet with the promise of Palmire, and threatened with the anger of God, we feel anxiously alive to the painful alternative offered to him; to the greatness of the reward, and to his horror of the dreadful crime by which he can alone obtain it. Palmire, who already loves him, the favour of the Godhead and of Mahomet, are the promised reward of his obedience, while the deliberate murder of a generous and venerable friend is the dreadful mode in which he is commanded to manifest it. A young and beautiful woman almost exciting him to commit the horrid crime, himself trembling lest he offend the most High by disobedience; a father about to be murdered by his children, and a cruel and selfish impostor impelling them, by the terrors of religion, to sacrifice their unhappy parent, form altogether a most striking and dreadful picture. Every word in Voltaire’s play speaks of human nature, and is directed to call up human sympathy. But the machinations of Caraffa

are such as are never likely to succeed. Such credulous idiots as Smeaton are seldom to be found, and if found are not likely to be believed. In reality, Smeaton did not cause the death of Anne: Henry was determined to rid himself of the disagreeable incumbrance of a wife who no longer pleased him, and would have done so, had Smeaton never existed. Nor in the poem does it appear that Anne falls a sacrifice to fanaticism. It is evident that she is the victim of Henry's brutal and ungovernable passion for Jane Seymour, and not of Caraffa's plot. Caraffa, in truth, has little to do with the affair, and is throughout *de trop*.

The characters of the drama do not redeem the errors of its plot. Caraffa and Anne are those, on which the poet has bestowed most attention, and from which we suppose, we are to judge his powers of delineation: in both he has, in our opinion, completely failed. An Italian jesuit has long been a convenient resource for the writers of common-place horrors, and has served to frighten all the novel-reading ladies of the last half century. These descriptions have been so often repeated, and have so much resembled one another, that the words Italian monk are no sooner repeated, than they call up in our minds the idea of a dark, dangerous, mysterious, intriguer, whose high, pale and commanding forehead exhibits plots by the dozen. And for ought we can see, Mr. Milman's Jesuit differs not from any other pale tramontane gentleman of the Order of Jesus who has figured in the pages of a neatly-printed octavo for this century past. Among the best lines in the poem, however, are those in which Angelo himself gives a description of his expectations in this world. Want of space prevents our giving them as an extract.

Anne Boleyn, if we are to believe Mr. Milman, was not only a pretty, gay, laughing queen, but moreover a profound theologian. Her conversational sermons are versified by lord Rochford; who by the bye is vastly complimentary to his royal sister. She is represented as a devout Protestant, with an excellent ear for music; a loving wife, and no bad disputant; a tender sister, an affectionate daughter, a witty story-teller, and a most gracious queen. We are not very particular as to historical truth in a poem, provided, it be not pretended that truth is preserved; but Mr. Milman appears to intend that this representation should be believed. Far be it from us to lessen any lady's renown; but we would at least suggest, that we never encountered such a blazing galaxy of excellence; and would, moreover, call to Mr. Milman's recollection certain stories that were afloat concerning this paragon of goodness while maid of honour to the duchess of

Alençon ; and that there lived a lady, a Catholic it is true, called Catherine of Arragon, sometime wife of Henry 8th ; who was supplanted in the affections of her husband, and deprived of her crown by the arts of a coquet, whose virtue, it was pretended, was proof against the sin of incontinence, but who had not the slightest objection to a husband, even though he might be the husband of another. If our memory fail us not, this lady was Anne Boleyn. It would be well to ascertain whether there be any foundation for these reports before Anne be declared

‘ A mingled consummation of beauty, gentleness, and goodness.’  
—p. 11.

It appears to us ill-advised on the part of the stout defenders of our Protestant faith, to insist so much on the virtue of the first propagators of Protestantism ; they had better let the good faith rest on itself, than trust to such unsound supporters ; for, with shame and sorrow be it spoken, many of the personages who contributed mainly to the happy event of our church reformation, were but sorry scoundrels, and deserving of more harsh epithets than we have either leisure or inclination to apply. Had not Henry 8th been one of this worthy race we should perhaps have taken the liberty to use some expressive terms to mark our opinion of their general character, but our respect for royalty prevents us from giving a royal murderer, all the epithets he deserves.

There is one description in this poem that has puzzled us completely. Cranmer laments that at the death of Anne the Protestant church would lose its most powerful supporter ; and that consequently it was vain to hope, that in our island

‘ A holy priesthood,  
Chaste, simple, and to themselves alone severe ;  
Poor below luxury, rich beyond contempt ;  
Environ’d with their heaven-led families,  
Should, with their lives, most saintly eloquence,  
Preach Christ, Christ only.’—p. 123.

If Anne’s death were really the cause of this hope’s being blighted, we most sincerely lament that untoward event. We can, however, hardly believe the death of this lady to have much influence on the lives, and incomes of our present clergy. But, leaving this delicate point to be decided at some other time, by any one who will take pains to investigate it, we must express our astonishment at Mr. Milman’s boldness in thus taking a poet’s licence to satirize what is, by lamenting the absence of what is not. It is evidently a piece of happy sarcasm ; bringing into view in one line the golden bishoprics, and forty-pound-per annum curacies of our graduated hierarchy.



Mr. Milman's diction possesses no greater attraction than his plot or his characters. Some specimens of the noble art of *Sinking*, in poetry, to be found in Anne Boleyn, are superior to any thing the ancients ever conceived. The homely phrases, "go and sell those wines, and change what remains of the preserved ginger, for beef and pudding," are thus made poetical ;

*' Go coin those wines, barter for homelier cates  
Those candied superfluities.'—p. 22.*

" The queen sees her brother in private," is thus rendered—

*' Her noble brother ———  
————— the queen  
To her close privacy admits.'—p. 18.*

" Some persons almost spit at me," is thus strangely, and almost indelicately expressed—

*' ——— Some did spurn at me,  
Did almost void their rheum on me.'—p. 15.*

And we could hardly persuade ourselves that the following lines were not pilfered from the " Critic" :

Mr. Milman :

*' Brother in Christ, thou knowest this land rejects  
Rome's bishop and his tyrannous usurpation.'—p. 43.*

Sir Walter Raleigh :

*' Philip, you know, is proud Iberia's king ;  
His subjects in base bigotry  
And Catholic oppression held, while we,  
You know, the Protestant persuasion hold.'*

From the professor of poetry in the University of Oxford, where the models of antiquity are supposed to be so carefully studied, and so highly esteemed, we expected good taste, at least, if not good poetry. In this expectation we have been disappointed. Sir Richard Blackmore resuscitated could hardly have produced lines in worse taste than the following exhortation :

*' Set wide the gates of hell, and summon thence  
Murder, enthroned on your high judgment seat ;  
Arm her dark sister, lawless Massacre,  
With the dread axe of public execution.'—p. 41.*

'They have the additional excellence of being unintelligible. Who is to be enthroned on the judgment seat we cannot discover. Is it murder, or the church of England, the archbishop of Canterbury, or the gates of hell ?

Mr. Milman seems also to think bad imagery better than none; in page 129, Angelo asks himself this sapient question:

‘ ——— Does Pity  
Pale the blue cheek of Pestilence that blasts  
Whole nations ?’ ———

Again Smeaton declares the queen to be,

‘ An angel by heaven’s providence *unplumed*.’

by which we are to understand her majesty to have moulted a full suit of heavenly feathers, previously to having donned an earthly garment of silk or velvet. Such extravagant images are not poetry but nonsense.

We have little space for many extracts, but cannot refrain from shewing our fair readers with what gusto a reverend father vents a few oaths. Has Mr. Milman followed the precept of the poet,

*Intererit multum Davusne loquatur an herus,*

and, from experience, learned the following pithy objurgation to be quite in character?

‘ Angelo—

‘ The game is won ere played !  
It fires beyond our hopes, the sulphurous train  
Flames up, they’re hurled aloft, but not to heaven.  
*Wake hell ! lift up thy gates ; and ye, that tenant  
The deepcst, darkest, most infuriate pit,  
The abyss of all abysses, blackest blackness,  
Where that most damning sin, the damning others,  
With direst, most remorseless expiation  
Howls out its drear eternity, arouse  
The myriad voices of your wailing, loud  
As when the fleshly Luther, or the chief  
Of his cursed crew have one by one gone down  
To tread your furnace chambers ! Rise, prepare  
The throne of fire, the crown of eating flames.*’—p. 84, 85.

We now leave Anne Boleyn to the opinion of our readers ; which, after the specimens we have laid before them, we are sure cannot fail to coincide with our own.

ART. VI.—*A Summary Account of the Steam-boats for Lord Cochrane's Expedition; with some few words upon the two Frigates ordered at New York for the Service of Greece.* By Count Alerino Palma. London. 1820.

**I**N the earlier part of the Greek contest, it was earnestly desired and strongly recommended to the provisional government of Greece, by those who felt most deeply interested in their success, that they should despatch envoys to the different parts of Europe, in order to give effect to that enthusiasm which had spontaneously manifested itself in their favour. But it was only at the close of the year 1822, that a series of prosperous events enabled the Greeks to adopt these suggestions, and M. Luriotis was then commissioned to visit this country, and to consult the friends of Greece on the best means of advancing her independence and freedom. On his arrival here, in January 1823, several meetings were held among those who had been watching the progress of the Greek revolution with intense anxiety; and as manifestations of public sympathy were visible, which ever way they looked, they determined to concentrate the scattered suggestions and exertions of individuals, and to give them all the strength and usefulness of which they were susceptible, by the formation of a *Committee*, whose sole object should be, to further the cause of Grecian Independence, and the regeneration of a country so dear to the recollections of the past, so interesting from the sufferings of the present, so encouraging to the hopes of the future.

On the 28th of February, 1823, the following gentlemen met at the Crown and Anchor Tavern:—Messrs. H. G. Bennett, E. Ellice, W. Evans, J. C. Hobhouse, J. Hume, C. H. Hutchinson, J. Maxwell, W. Smith, and J. Williams, M. P.'s; Dr. Gilchrist, Mr. Z. Macaulay, and Mr. Bowring. A simple resolution was passed, “that a Committee should be formed, to meet from time to time, in order to consider of the best means of promoting the cause of the Greeks.” In the course of a month, the candidates for admission were so numerous, that a Committee was established—probably the most extensive, the most efficient, and, while any prospect of usefulness remained to them, the most zealous, that had ever been associated in a public cause. Of those who remain, it would be indecorous individually to speak; but of the members that have died since its formation, it may truly be said, that the cause of Greece rekindled, in the decaying spirit of lord Erskine, the fire and the eloquence of youth; that lord Byron's devotion, and his sacrifices to that cause, threw a splendor, bright as his own genius, upon his latter days; that



the sterling intelligence and the strong sympathies with which Mr. David Ricardo instructed and ameliorated all those about him, were greatly excited in behalf of Greece; and that the straight-forward honest zeal with which General Long devoted himself to the service of that country, and the frankness and readiness with which he communicated all his military knowledge for its assistance, endeared him to his Philhellenic associates. In the melancholy and miserable exposures to which the late discussions on the subject of Greece have led, the Greek Committee has come in for a large portion of public censure; but we hope to show, nay, to demonstrate, and *that* after a thorough examination of the matter, that the conduct of the Greek Committee throughout has been marked by prudence and wisdom; that in every instance they sought a proper end, and employed proper means; and that they were thwarted by circumstances wholly beyond their calculation and their control. It will appear that the evils, which have menaced or afflicted Greece, were foreseen, and as far as possible provided against, by the Greek Committee; and if it be borne in mind that the Committee had only the power to *recommend*, but never to enforce a recommendation, that they were counsellors possessed only of the authority which those they had to counsel chose to allow, that they had no influence beyond the influence which honesty of purpose, activity of zeal, and deliberate consideration could confer; it will, as we believe, appear that they have deserved well of Greece, and have deserved well of their countrymen and of mankind. They have had to withstand the attacks of those who deemed their prudential measures, their want of confidence in the Greek leaders, as unnecessary and uncalled-for stigmas upon the Greek character; of those, too, who looked upon the attempt to elevate the Greeks from their moral and mental degradation, as a hopeless and a thankless endeavour. They found not, nor did they expect to find, those higher excellencies of character which grow out of freedom and civilization; but they expected to discover, nor were they disappointed, that despotism had yet left undestroyed among the Greeks, virtue and valour enough to save their country. The Greek Committee proposed to itself one great object—to assist in securing the enfranchisement of Greece; and when the measures are reported, to which, from time to time, they called the attention of the Greek deputies, and of the different parties, or factions which, one after another, were deemed to hold the reins of government, it must be seen what golden opportunities have been neglected, or thrown away.

The moment when the Greek Committee assembled, was cer-

tainly an auspicious one ; and the numerous, the almost numberless, communications which they received, proved how extensive were the feelings of anxiety and interest in the success of the Greeks. Several attempts had been previously made to associate the friends of Greece in England, but they had failed, because the prime movers wanted either influence or address, notwithstanding the examples of Germany and Switzerland, which had, in spite of their limited resources and the political difficulties which were opposed to all expression of public opinion, already sent frequent and efficient aid to the struggling Greeks. There, indeed, Philhellenism had partaken of a religious enthusiasm ; the press teemed with addresses, pamphlets, and books ; even in obscure villages sermons had been preached, prayers had been offered up, and no inconsiderable collections made in favour of " Christians fighting the battles of the cross," of patriots contending for liberty, and for the land of their fathers.

One of the earliest anxieties of the Greek Committee was, to obtain the most correct and minute information of what was passing in Greece, as they soon discovered that no authority attached to the newspaper reports, which were always distorted or coloured by the spirit of partisanship. No newspapers existed in Greece until the Committee sent types and presses for their establishment, so that no public opinion could correct the errors of individual exaggeration or personal prejudice. Almost all the merchants of the Levant made it their common object to vituperate the Greeks, to darken their virtues, to deny their successes, and to blazon forth their defeats : while, on the other hand, the Greeks established in France and Italy, filled the newspapers with monstrous distortions of what had really occurred. Every trifling skirmish became a bloody combat, in which ten-fold more Turks were massacred than had ever been engaged, so that no species of deception, or mendacity, was left untried by either party, which, by the concealment of truth, or the intrusion of falsehood, could elevate the one, or depress the other. Facts were all-important to the Committee, and they therefore instructed their agent, Mr. Blaquiere, to proceed immediately to Greece, accompanied by Mr. Luriottis, in order to ascertain precisely the situation of things in that country ; to report, in detail, as to the most effectual way in which the assistance and co-operation of the Committee could further the cause of Grecian independence ; and, especially, to urge on the provisional government the importance of immediately accrediting a mission to England, furnished with powers to act in the name of the govern-

ment. At the same time, the Committee offered their most cordial and zealous assistance to the Greeks, pledging themselves to use every exertion which might lead to the consolidation of the liberties of Greece. The state of parties in Greece has always presented a fearful barrier to the consolidation of Grecian liberty ; but the Committee made it a rule, from the first, to keep aloof from, and, as far as they were able, to control, that spirit of disunion, which has been the primary cause of all the calamities with which Greece has been visited ; the great impediment to the organization of a wise, a good, and a national government in Greece ; that spirit of disunion which has turned into sources of weakness all the elements of strength, and frequently dragged to the verge of perdition one of the noblest and purest causes which ever occupied history or interested man.

Meanwhile the miseries and sufferings produced by the indiscriminate massacres of Scio and Cyprus, and the destitution and distress which the events of the war had entailed on helpless men, women, and children, who had been compelled to seek an asylum, in different countries, from Turkish ferocity and barbarity, had led to the formation of a Committee among the Society of Friends, who, without taking part in any political question, had, with admirable generosity and zeal, been labouring successfully to diminish the afflictions of the Greeks. Many hundreds of Greeks who had been driven from the southern and western provinces of Turkey, from Wallachia, Moldavia and Macedonia, and from the islands of the Archipelago, were enabled to return to their homes ; others have been assisted with pecuniary aid in most of the ports of southern Europe. Medicines and hospital stores were frequently sent by the Friends, at the request of the Committee, on board the same ships which carried supplies of military and naval ammunition, and volunteers full of ardour and enthusiasm. The exertions of this benevolent body of men, as it removed from the attention of the Greek Committee a large portion of distress, enabled them to direct their views, and to employ their limited funds, exclusively for the political and military service of Greece.

Soon after the formation of the Committee, lord Byron, one of its members, spontaneously offered his services to proceed as the representative of the Committee to Greece, and to devote his time, his talents, and his fortune, to a cause which he had, in truth, wonderfully assisted by the enthusiasm of his genius, and "wedded" to his own immortal verse. In the difficult circumstances in which he was frequently placed, he bore himself with great generosity and discretion. If in any thing he erred, it was that his affection for Mavrocordato induced him to attach him-



self individually to him, and to remain at Missolonghi, detached from many of the influential chiefs of Greece, whom he might undoubtedly have controlled, and have subdued their factious differences to the common cause. If lord Byron, instead of continuing at Missolonghi, had withdrawn to Salona, or Argos, and there gathered round him the aristocracy of the country, the military leaders, and the principal island chiefs, we think his master mind would have subdued, or at all events have diverted into a less pernicious course those dissensions which have so often wasted the energies and destroyed the fair prospects of Greece. The death of lord Byron was an awful calamity, both for the Greek people, and for the English Committee; since the influence of his name, and of his mind, was not only essentially important to the Greeks, but of singular value in all their negotiations with their enemies. On more than one occasion, the garrison of Patras, the strongest and most important hold of the Turks, would have surrendered, could security have been obtained for the proper fulfilment of the terms of the capitulation. Just before lord Byron's death, propositions were renewed, and we know that the Turkish and Albanian forces offered to abandon the citadel, on lord Byron's individual guarantee for their safety. The negotiations were frustrated by his illness and death. Yet, notwithstanding his too short career, the services he rendered to the Greeks were incalculable. It was with money furnished by the English Committee, and appropriated by lord Byron, that the walls of Missolonghi were prepared for that heroic defence, which forms, perhaps, the noblest page in the records of the Grecian struggle. Very soon after lord Byron's arrival in Greece, he urged the Committee to address\* the Greek people, enjoining them, by every motive of

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\* We subjoin a copy of this Document :

*“ Greek Committee Room,*

*“ London, 27th December, 1823.*

“ The Greek Committee have seen, with a distress and anxiety equal to the interest they feel in the holy cause of Grecian Independence, the accounts which have lately been received from the Morca, of those internal discords, which have already produced so much evil to the common weal, and which threaten new calamities, that may be fatal to the glorious objects which the heroes of Greece, and their friends in England, have equally in view.

“ Nothing but the most ardent zeal in favour of Grecian freedom, and the keenest susceptibility to every circumstance which impedes its progress and delays its final triumph, would have induced the Greek Committee thus to address the distinguished leaders in Greece; urging them, by the love of their country, which they have so nobly served, by every sentiment they hold sacred, and by every hope that is dear, to forget those little differences which may have been created by the tide of events, and to unite in the

virtue and patriotism, to forget their personal differences and misunderstandings, and to unite in forwarding that common object to which every other should be subservient, and which

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strongest bonds of fraternal amity—to unite their hearts and their arms in the common cause, a cause which can only be endangered by disunion and misunderstanding.

“Such an union must necessarily and speedily conduct Greece to that proud and noble station which she seems called to occupy among the nations of present and future days; a station worthy of her ancient fame.

“None but your enemies, valiant Greeks, can have an interest in any internal dissensions; it is by your enemies they are formed and fostered; it is by your enemies that they will be turned to account. They will be made the pretext for interfering with your independence, and with your freedom. They will prevent their recognition by the friendly and indifferent nations, who watch the progress of the struggle; and they will be used against yourselves, as they have been already used by both open and secret foes.

“Not only the general interest and happiness of your country, but the individual security and comfort of each, depend upon the union of all parties in obedience to the government; on a concentration of action and of measure, in a word, on that universal concord and confidence, which will give security to those whom you have invested with power, and provide for the well-being of the whole mass of citizens.

“And be it allowed us to remark, that this spirit of union and moderation would essentially advance your interests both with the government and with the people of England. To the latter it would give encouragement to continue and to increase their sympathizing exertions, and it might induce the former more openly to countenance the independence and liberty of Greece.

“On the pecuniary transactions of the government of Greece, any thing like disunion must have the most fatal consequences. The Greek Committee hope that a loan may be effected in this country on not disadvantageous terms; but it is of the highest importance that it should possess that moral guarantee which results from internal concord and good understanding.

“The Greek Committee have the highest satisfaction in communicating that part of the speech of the President of the United States, in which reference is made to the glorious struggle in which you are engaged, and they are assured, that the Transatlantic countries in general are looking with the highest interest and sympathy on the progress of events.

“From various parts of England the Greek Committee are constantly receiving new proofs of the anxiety with which their fellow-countrymen regard the heroic efforts of the people of Greece, and they beg to communicate, as a specimen, the address which has just emanated from one of the leading Universities, where a subscription has been opened, which has been headed by a prince of the blood.

“The Greek Committee have further instructed the right honourable lord Byron and the honourable colonel Stanhope personally to urge, in the strongest terms, the necessity of union and co-operation, and, at the same time, to convey the repeated good wishes and cordial salutations, of the Greek Committee.”



required all the exertion of all parties in Greece. For a time it was hoped, that the address, which was extensively circulated in Greece, had produced a favourable impression; but that impression was gradually weakened, and the contending factions were, ere long, involved in new and bloody quarrels.

It is necessary, in order to the right understanding of the real state of Greek affairs, to distinguish the different parties, and to observe in what respects their interests were opposed to the common interests of Greece. As, unfortunately, from the very commencement of the struggle, the government has either been in the hands of one or other of the contending factions, or had grown out of an insincere coalition between them, in which one set of men in power have been constantly engaged in subverting, or intriguing against another, it will be seen how the selfish and sinister interests of every party have been in their turn, the principal spring of all the misfortunes in Greece. All attempts to introduce an improved system of military tactics were opposed by the Guerilla chiefs, the Kapitani (Kleptai) of the mountains, who felt that their own influence depended on the suppression of a regular soldiery. The primates, who had been thoroughly corrupted by Turkish despotism, of which so many of them had been the agents and the participators in its spoils, resisted all suggestions which would have limited and restrained their power, by giving more influence to the people; so that the fiscal regulations of regenerated Greece were scarcely less barbarous and oppressive than those which existed under the Turkish sway. Again, the islanders were altogether unwilling to remove the impotency and inefficiency of the Greek maritime power. The fleets of Greece were, and are the private property of the Hydriote and Spetziote merchants, hired by the Greek government at a monthly freight; there is consequently the greatest unwillingness to come to action, and the strongest motive to preserve their vessels at all events: add to this, the Greek crews are always part proprietors of their ships, so that nothing whatever but the prospect of plunder would induce them to attack an enemy. Again and again, in season and out of season, did the Greek Committee urge upon the Greek government the obvious necessity of creating a national navy. Resolution after resolution was passed, recommending particular vessels, which had presented themselves as appropriate to the service, but in vain. How, indeed, was it to be expected, that Conduriottis, the Greek president at Nauplia, and Orlando, the Greek deputy in London, both large owners of vessels hired by the government, would consent to any measures which interfered so directly with their nearest private



interest? So, when the Greek Committee furnished to the government plans of military organization, such plans were always opposed by those irregular chieftains, whose fall was necessarily involved in the creation of a superior military power. "Money, money," was the universal cry, the only instrument in whose efficacy all parties agreed; and though a certain sum, if placed under the control of an intelligent and virtuous influence, might have been of great service with such a security for its proper and judicious appropriation, there is no doubt in our minds that the gold which has been sent to Greece from this country instead of a blessing, has proved a serious bane.

This conviction soon became the rule of conduct to the Greek Committee, and, as the best and most valuable gift to Greece, they fitted out an expedition at an expense of between 5000*l.* and 6000*l.*; which conveyed every species of machinery, instruments, tools, and appropriate workmen, to enable the Greeks to establish an arsenal, and to manufacture their own ammunition and weapons of war. Nearly a dozen mechanics, each one of a different profession, carefully selected and thoroughly examined, accompanied the expedition. Any one of these men might have been of incalculable use to a semi-civilized nation, unacquainted with the arts he was enabled to teach; but a sad fatality attended an expedition whose preparation and details had cost so much labour and anxiety. The laboratories were hardly established, ere petty jealousies interfered with the labours of the workmen. They were more than once fired upon by the undisciplined soldiery; the government gave them no protection, and with the exception of an amiable and intelligent chemist, who died in Greece in a state of great misery, the others fled from a country which had disappointed all their expectations, and to which, after such experience, it was not likely they should accommodate themselves.

A very curious fact, and one which serves to explain matters hitherto unintelligible, drops out in count Palma's pamphlet. It is, that the Greek Committee lost their influence with the Greek government in consequence of the want of confidence in the latter, which the measures of the Committee exhibited. The Committee assuredly never thought of deviating from the course which the interests of Greece appeared to recommend, in order to obtain the favour of any of the successive factions that have held sway in that country. The information they were enabled to communicate, if it had been received in the same spirit as that from whence it proceeded would have doubtless prevented many evils and have conferred many benefits. A great variety of friendly suggestions, political, statistic, military, and

naval, were from time to time despatched to Greece. Some of them may fructify hereafter, and meanwhile, there is consolation in thinking, that a good intended is really a good done.

Among the earliest contributions to the well-being of Greece, from the Committee, were several printing and lithographic presses, several founts of types, and all the materials necessary for the immediate production of a newspaper; and it is something, for English complacency to dwell on, that the first newspaper ever printed in Greece, issued from the presses and types sent thither by the Greek Committee. Political journals were established at Missolonghi, Athens, and elsewhere, and a curious and touching spectacle of human mutability was exhibited. The ancient and venerable shrines of learning, which had fallen into barbarism and decay, again received the most important instrument of knowledge and civilization from a country unknown in the days of Grecian glory, or, if known, known only as the abode of naked savages. The existence of the press in Greece may hereafter give some security for good government, and open a course for acquiring genuine information as to what is passing there. A quantity of maps and mathematical instruments were also sent to the Morea.

The agent of the Greek Committee, who was appointed to co-operate with lord Byron, was the honourable Leicester Stanhope; and it would be difficult to find a man more richly endowed with every quality which could recommend him to the approval of the friends of Greece. A straight forward sincerity of purpose, a singular love and constant advocacy of truth and publicity, a clear-sightedness which enabled him to weigh the merits and to use the influence of the different parties in Greece; an unwearied activity of body and mind; in a word, every moral and intellectual quality which became his situation, distinguished his career in Greece. His work on Greece, notwithstanding its literary defects, will remain a permanent monument to his sagacity, wisdom, and virtue. While mindful of the political interests, and keenly alive to the military defence of Greece, he was busily engaged in every project which could advance the civilization and the happiness of that country; and when Greece shall be rescued (if ever) from Egyptian bondage, and enter upon her new career of improvement, the seed which colonel Stanhope scattered will assuredly grow up. He caused schools to be established, hospitals to be organized, printing-presses to be set in motion, internal communications to be provided for: he gave an impulse to every species of improvement, and we have great satisfaction in associating with his name the resolution of the Greek Committee, which was unanimously passed on colonel Stanhope's return.



“Resolved,—That the honourable colonel Stanhope is entitled to the most grateful thanks of the Committee, for the unwearied zeal, sound discretion, and extensive benevolence, manifested by him, while acting as their agent in Greece; and that the Committee anticipates great benefits to Greece, from the exertions and suggestions which distinguished his visit to that country, and desires particularly to record and to communicate its high approbation of his efforts to promote harmony and a good understanding among the different leaders in Greece: a result greatly advanced by his conciliatory spirit and superiority to party considerations.”

Two Greek deputies, Orlando and Luriottis, arrived in England in the beginning of 1824. On their reaching London, the arrangements, which had been for some time before contemplated by the Committee, were carried into effect, and a loan of £.800,000 was raised for the service of Greece, on terms far more favourable than had been anticipated even by the Greeks themselves. The Committee, in order to secure at once the proper appropriation of this money, stipulated with the deputies, that three of their members, Messrs. Hume, Ellice, and Loughnan, should be named as commissioners to sanction the disposal of the money in London, and three other members, lord Byron, colonel Stanhope, and Mr. Gordon, to whom they added, M. Lazaro Conduriottis, a Hydriote Greek, to watch over the funds on their arrival in the Morea, to secure their proper application to the purposes of war, and to obtain from the Greek government such guarantees as were necessary to provide for the safety of the lenders, and for the reputation of the borrowers. Events have shown, that this arrangement was most judicious; but unfortunately, the intentions of the Committee were thwarted by lord Byron's death, colonel Stanhope's recall by the English government, and Mr. Gordon's unanticipated absence from Greece. A part, however, of the views of the Committee were accomplished, and it will be seen, that no dilapidations or misappropriations of the *first loan* took place in this country at least. The whole amount raised, was honestly, if not judiciously applied; and the inquiries of the Committee were mainly directed to those matters, whose obvious importance should have excited the instant attention of the Greek deputies and the government. But the cry of both, was for “gold, gold,” while Greece wanted not gold, but iron; military organization; defence for her own strong holds; and means for attacking the fortresses of the enemy. When these objects were introduced to the deputies, their retort was, “We have no orders from our government:” when urged on the government, no answer could be obtained—no word of reply, but *ἀόρον*,



ἀύρον—that miserable retreat in which indifference and tardiness habitually take refuge. The Committee, however, renewed their instances, and laid before the deputies such suggestions, as they could safely recommend. They appointed a military Sub-Committee, consisting of experienced and distinguished officers, who drew up plans and suggested measures for taking Patras, Lepanto, and Negropont from the Turks, and who spoke with perfect confidence of the success of their arrangements, recommended alike by their economy, and by the facilities by which they might have been despatched; but no money could be obtained for these all-important objects. The delay and difficulty of communication with Greece, had been long painfully felt, and the Committee urged the purchase of a small vessel, which was most opportunely offered: but even this slight expenditure was disapproved of, and rejected. In June 1824 (we mention the date, because it shows how long ago, had the wishes of the Committee been consulted, an important object would have been effected, whose accomplishment is now so wrapped up in doubt and perplexity) they, on the suggestion and approval of high naval authorities, applied to the deputies to sanction the appropriation of a part of the loan to procure steam-boats for the purposes of war; but the application was unsuccessful. How much blame attached to the deputies, and how much to the government, it may not be easy to decide: it is obvious the power of mischief was every where, the power of good no where; but the Committee, at a meeting when those members were present, whose names will be found beneath, determined to despatch in *triplicate* a remonstrance to the government of Greece; to which, however, that government never sent a reply.\*

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“ Greek Committee Room,  
 “ London, 12th June, 1824 .

“ The Greek Committee, to the Executive Government of Greece.

“ Excellent Sirs ;—Associated solely for the purpose of co-operating in the Deliverance and Independence of your Country, and desirous of giving every possible effect to the means of usefulness we possess, we take the liberty of calling your attention to the suggestions of the present communication.

“ From time to time recommendations have emanated from this Committee, which we have deemed highly interesting and important to the welfare of Greece; but we have been concerned to find, that no powers have been possessed by your agents, in this country, to enable them to carry these recommendations into effect. The sending of military stores, the adoption of sundry improvements in the art of war, the introduction of steam vessels for the purpose of rapid communication and for naval service, which, in the opinion of the most enlightened officers of marine,

The arrival of colonel Stanhope, soon after the date of this letter, confirmed all the previous views of the Committee. He urged the immediate despatch of the battering trains and artillery corps which had been recommended by the military Sub-Committee; and the immediate creation of a national fleet to be at the disposal of the Greek government instead of the private property of the island merchants and adventurers. As a last hope, two young and enthusiastic members of the Committee volunteered their services to proceed to Greece in the character of agents. They took with them, in sovereigns, £.50,000 of the loan, and were instructed to endeavour to obtain from the executive government some securities for the payment of the future interest, and some pledge for the fit appropriation of the proceeds of the loan. The government kept them for some time at bay, until they determined to sail away with the money. On their carrying this intention into effect, a vessel was sent after them with the assurance that the wishes of the Committee should be instantly complied with; but they had scarcely

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would promptly lead to the destruction of the Turkish fleet, the formation of a National Marine, and sundry other benefits, whose realization we most assuredly anticipated from the success of the loan; a loan which scarcely could we think have been effected without the auspices of the Greek Committee, and which is, at this moment, in such a situation as to excite great alarm for the credit of your government, and the interest of all concerned; all these suggestions have been made in vain, anxieties have grown, time has been lost, and we now venture to entreat that the means of effective usefulness, by a frank communication with your Agents, as will enable them to avail themselves of the willing services of the Greek Committee.

“It is of high importance, at a crisis which may ere long determine the fate of Greece, that your country should be represented here by gentlemen possessing ample powers for carrying those plans into effect, which promise great benefits to the cause of your Independence; by gentlemen possessing activity of mind, high intellectual qualifications, and an ability to avail themselves of those political circumstances which arise out of the course of public events.

“We rejoice to learn that the misunderstandings and dissensions, which existed in Greece, are at last subdued; to unite is to succeed. With our best wishes for your success, and the expression of our strongest sympathies,

“We are, excellent Sirs,

“Your friends and zealous Servants,

JOSEPH HUME (*In the Chair*).

MILTON, M.P.

JOHN CAM HOBHOUSE, M.P.

ROBT. L. DUNDAS, Col. K. C. B.

LESLIE GROVE JONES, Col.

JOHN WILLIAMS, M.P.

H. DAVIES, Col. and M.P.

J. YOUNG, Col.

ROBT. LONG, Lieut.-gen.

C. B. SHERIDAN.

JOHN B. GILCHRIST.

J. S. BUCKINGHAM.

G. H. DUNDAS, Capt. R. N.

H. L. BULWER.

JOHN WILKS.

JOHN SMITH, M.P.

JOHN BOWRING, *Hon. Sec.*”

returned into the port of Nauplia, ere the yellow fever attacked the crew, and in a helpless and a dying state they were conveyed to the Asiatic coast. It is needless to add, that their exertions proved fruitless. The money was taken possession of by the government.

It is mournful, it is painful, to go through these details ; but the interests of truth and freedom demand it. The present melancholy situation of Greece has been laid to the charge of those who took the deepest interest in her salvation. Let facts answer the calumniators : these calumniators are the men who poured out their scorn and their ridicule on the early struggle of Grecian emancipation, and who appear now to contemplate the sad fate of Greece with complacency, because through her they fancy they can wound the reputation of some of the best and wisest friends of our race. But this may not be. Those who on all occasions are the first and foremost among our public philanthropists have done their duty here.

In the progress of hostilities so fierce and ungovernable as those which have accompanied the Greek struggle, it could not but happen that many unlawful irregularities would take place between the contending parties. The Greeks had, on more than one occasion, irritated the British government. They had landed at Ithaca an English colony, and had attacked and destroyed many Greeks who had landed on that island. Various acts of piracy, too, had been committed under the Greek flag. It was not to be expected that the Greeks, just awakened from their terrible and humiliating subjection, should understand or conform to all the delicate distinctions of international law. When serious complaints were made against some of the proceedings of the Greeks, the Committee requested one of their body, who is most distinguished for his perfect acquaintance with the law of nations, to draw up for them a short code of maritime regulations, whose adoption might prevent umbrage being given to any European power, and especially to those who were looking towards Greece with no friendly eye, and rejoicing in every infraction of the regulations of civilized warfare. Sir James Mackintosh devoted much time to the preparation of an elaborate, but precise and clear exposure of the principles recognized by European usage, and the Committee had reason to hope that the establishment of Admiralty Courts in Greece would lead to the suppression of all those outrages which equally embarrassed the government at Nauplia and their distant friends. While the Turks clung tenaciously to the prejudices and the habits of a semi-civilization, the Greeks should have availed themselves of all the experience and all the



knowledge which European sympathy showered upon their country from every side. Organization—union—must be the instruments of Grecian salvation; and, if these were important while Greece had only the undisciplined hordes from the Bosphorus to contend with, they are urgent, they are indispensable, now that a new enemy, with forces trained by European tactics, has over-run her soil.

The *Amphitrite*, the first vessel which had ever hoisted the Greek flag of independence in an English port, arrived in the Thames in October, 1824. She brought ten boys, who, in consequence of the recommendations of Mr. Blaquiere, were consigned to England for education at the expense of the committee. These youths were selected from the different provinces and islands of Greece, and have been for some time at the Borough-road school. Should Greece struggle safely through her present perils, they must have a permanently happy influence upon her future condition. But it is a melancholy fact, and a fact little creditable to British sympathy, that it has been impossible to raise funds in order to complete their education in an appropriate manner, so much has the interest in the well-being of Greece slackened in this country. One might have hoped that to the furtherance of such an object none of those political embarrassments would attach, which have prevented so many from lending their assistance towards advancing the emancipation of Greece. When Mr. Blaquiere, in his enthusiasm and honest zeal, assured the Greeks that British sympathy would educate and provide for even a larger number of youths than were committed to his care, he did too much honour to the benevolence of his countrymen. Their diminished zeal in favour of the Greek cause is irresistible evidence how lightly they take up, and how inconsiderately they lay down objects of the deepest interest. They advocated the cause loudly, though not long, of *oppressed* Greece; but as soon as they discovered the errors and vices which were the best evidence, the only evidence, that she *had been* oppressed—the evidence that oppression had produced its worst influence on the Greek character, their sympathies cooled, and their exertions ceased. They made appeals in favour of a *suffering* people; and when these sufferings had increased tenfold—when the woes and the perils of Greece had filled her cup of bitterness to the brim—the voices of her old advocates were silent, and their hands, which had been outstretched, were withdrawn. Now, could a stronger case be proposed to the philanthropic affections than this—that a people, still possessing most striking capabilities of improvement, were engaged in an unequal struggle with the ignorant barbarians

who had overrun and devastated their country; that a people once supremely distinguished in the records of civilization, but who had been doomed for ages to indifference and torpidity, were awaking, as one man, and striving for freedom with all its train of blessings; that a people possessing the most beautiful country that the sun looks upon, and which at every step shows the mementos and the monuments of its former greatness and glory, were all animated with the determination to rescue that country from those who had made it almost a wilderness: in a word, that a people corrupted and degraded by despotism were heroically determined to remove the cause of their corruption and degradation? If the Greeks possessed the vices of which slavery is the parent, could any thing so strongly recommend them to the sympathies of virtuous men as the attempt to break the chains which had marked them with moral opprobrium? And what can be said of those who would perpetuate a system which, according to themselves, brought with it so much of profligacy and misery? "The whole need not a physician, but those who are sick."

Of the enormous sums raised in this country in the shape of loans for the assistance of the Greeks, it may be instructive to give some account. We are not of opinion that a greater portion of fraud and mismanagement attaches to the disposal of the Greek loans than to many others, which have been less the object of public attention, and farther removed from public scrutiny; but as we believe and know that a feeling of sympathy for the Greeks, and a desire to assist their cause did, in many instances, supersede the grosser and more common motive of pecuniary interest, so we think that a valuable lesson may be learned for the future out of the disclosures of the past which have taken place. We shall give, in gross numbers, the particulars of these loans, as far as we have been able to collect them; and we think the conviction will be forced on every man's bosom, that the ill-appropriation of the first (if ill-applied) must attach to the arrangements made for its expenditure in Greece, to which so large a portion of it was directly remitted. The mismanagement of the second belongs to England, and we apprehend the details of its expenditure will give no satisfaction to any one.

The first loan for 800,000*l.* produced to the Greeks the nett sum of 454,700*l.*

Out of this loan they paid 80,000*l.* for interest, and 16,000*l.* towards the sinking fund. The amount remitted to Greece in specie was 298,700*l.*; in stores and ammunition, 9,900*l.*; payments made in Greece for the relief of Missolonghi, 2,400*l.*;



5,000*l.* for the expenses of the deputation for 12 months ; paid to one of the deputies (Orlando) on his private account, 5,900*l.* ; repayment of a loan made by lord Byron to the Greeks, 4,000*l.* ; sundry expenses, 5,300*l.* ; and a sum of 27,500*l.* was paid over to the account of the new loan as the balance of the old.

The second loan, for two millions, was contracted without the slightest reference to the Greek Committee, to whom we have reason to believe the whole affair was a secret. And this was rather extraordinary, because whatever opinion might have been formed of the Committee, they could not but possess a great number of important facts, of which a contractor would have done well to possess himself, alike for his own security and the security of those who relied on his judgment. We think that contractors in general hold far too cheap the responsibility on which they stand to the public, and that when monies are lent to young and feeble governments, like that of Greece, some guarantees should be obtained for their proper application. Had the large sums raised for Greece been well and wisely applied, there can be no doubt that the soil of Greece would at this moment be untrodden by an invader. As it is, the money has corrupted her chieftains, fomented her factions, lowered her character, and alienated many of her friends ; while those who advanced it have only to anticipate final and total loss : for notwithstanding every recommendation that urgency itself could impress upon the Greek government, no measures whatever have been taken for the payment of the stipulated interest, or for the fulfilment of her part of the contract with the English lenders.

The nett produce of the second loan for 2,000,000*l.* was 1,046,000*l.* ; add to which the sum of 39,800*l.* was received from the former loan, from interest of bonds, and 1,200*l.* of the Calcutta subscription. The amount reserved for interest was 200,000*l.* and for the sinking-fund 20,000*l.* The sum remitted to Greece in bullion appears to have been, in round numbers, 182,400*l.* ; and 68,200*l.* was employed in the purchase of military stores. A sum of 212,200*l.* has been spent in buying up bonds. To the steam-vessel expedition 160,000*l.* has been appropriated ; and the sum of 155,000*l.* has been spent at New York, being *part of the cost* of two frigates. The Greek government have drawn for 33,700*l.* ; 3,300*l.* was remitted to the relief of Misolonghi ; 15,100*l.* has been appropriated to the formation of a body of regular troops. The deputies' expenses are 6,600*l.* ; and 12,400*l.* seems to have been employed to discharge minor claims. It is nearly impossible to verify these statements in



detail, but they present a melancholy outline, which will be filled up according to the temper or the knowledge of the inquirer.

Among the largest items by which the expenditure of the received loan is accounted for is the sum of 155,000*l.* employed in America for the building of frigates. Nothing but infatuation, gross ignorance, or dishonesty will serve to account for this strange misappropriation of the Greek money. At a moment when instant assistance to Greece is all-important—at a moment, too, when it is within our knowledge that many ships of war, cheap, and ready for sea, were to be found in European ports, a *cavalry officer* is engaged, at an enormous salary, and is despatched to the United States with vague instructions—instructions inconsistent, too, with the orders of the Greek government; and, after spending 155,000*l.* in the erection of two frigates, it is discovered that a very large sum, not less than 50,000*l.* more, is wanting to complete them; and the result is, that both of them get confiscated as security for the debt for which they are said to be responsible. The most favourable result that can now be anticipated is, that one should be sacrificed to save the other; and the Greeks will possess a frigate at a price for which all the annals of official jobbing present no parallel.

There are many reasons why we cannot go through the strange jumble of facts and fictions; of assumptions, declamations, vituperations and conceits which are contained in count Palma's pamphlet. But we think the very serious charges brought in it against sir Francis Burdett, Mr. Hobhouse, and Mr. Ellice require from them an early disclaimer. Men who owe their reputation to public opinion must not treat that tribunal lightly; and certainly much obloquy—undeserved in our opinion—attaches to them in consequence of the part they are supposed to have taken in the projected expedition of lord Cochrane. But it is our deliberate conviction, that the delays and disappointments which have hitherto interfered with its completion, are much more attributable to his lordship himself than to any other party. The vessels were built, the machinery constructed, under his own directions; the builders and engineers were wholly of his own choosing; chosen, too, against the opinion of others, who were, perhaps, better able to judge, than lord Cochrane could be, of the means they possessed of fulfilling their engagements. But here, as every where else in the management of Greek affairs, responsibility has been so divided, so extended, that it has afforded no species of security for the accomplishment of any object proposed. Hence it is, that the inquiries respecting the mismanagement of these loans have led

to a series of personalities in which every man who has been accused has found some ground for attack upon his accuser; and attention has been diverted from the cause of Greece to the misunderstandings and the criminations of those who have been in any way associated with her affairs. As the count has been in Greece, and his narration must be considered a semi-official production, we shall state such of his opinions as we can unravel from his confused and entangled phraseology. He deems that all the misfortunes have occurred in Greece because the deputies had too little control over the Greek funds. We, on the contrary, think that almost every evil is clearly and distinctly to be attributed to their having too much. Neither in the first loan when there might have been some excuse for inexperience, nor in the second, when there was no such excuse, was any sufficient authority exercised in order to secure the advantageous employment of the money, either in England or Greece. The power to save Greece was always in the hands of those who controlled the loans, and they ought to have been disposed of by honest, intelligent, and active minds, instead of being exposed to the errors of ignorance, indolence, or cupidity. The efficient government of Greece might have emanated from England, and Greece have had the benefit of the military, naval, political, and scientific knowledge of her advocates. The judicious application of one-fourth part of the sums which have been raised for Greece would, as we firmly believe, have completely driven the invaders from her soil. It cannot be doubted that the situation of Greece is now far less favourable than it was ere she had received any pecuniary assistance whatever. The Count's charges against the Greek Committee, as far as we can understand them are, that it "*arrogated* to itself the right of preventing certain monies being sent to Greece, and constituted itself the protector of the bond-holders" [p. 8.]. Now the latter part of the charge is mainly true, inasmuch as the Committee always deemed, that the best policy for Greece was the faithful discharge of the pledges she had given to her creditors; and the Committee certainly instructed its agents in Greece to endeavour to obtain an immediate transfer into the hands of trustees, of such parts of the national property as would ultimately provide for the repayment of the loan, and, in the mean time, secure the remittal of the dividends. The Committee, not more in the interest of the bond-holders than in the interest of Greece itself, did frequently and urgently call the attention of the Greek government to the necessity of providing for the regular payment of the interest on the bonds. The Committee entreated, that if not the whole, at least a part, even a few



cargoes of produce, any thing, indeed, which would be evidence of their intention to fulfil their contracts, should be despatched to England: and they used not only the moral argument, but the purely selfish argument to the Greeks; for they told them that no more money would be found, unless early measures were taken to pay the interest on that which was already due; and that, if this were done, any sums of money which might be required for the salvation of Greece would be easily obtained. The Committee failed in their object of securing the property of the creditors of Greece: it would have been well had they succeeded; well for the English lenders, and better for the Greek borrowers: it would have been well, too, for the cause of freedom, and of man. The other charge that count Palma brings forward against the Committee is something like a charge of embezzlement. He asks what became of "the 8,000*l.* that the Quakers and friends of Greece gave to the Committee, or its agents, and which were not remitted to the Greek deputation in London, since they told me in Greece that not even the half had reached them." The money which the Quakers raised, and which amounted to about 10,000*l.* was distributed by themselves in works of benevolence—in assistance rendered to fugitive and captive Greeks, and in the education of a number of Grecian youths. The Quakers are not—we will tell the count this secret as he is a stranger and a foreigner—the Quakers are not accustomed to employ their resources blindly or foolishly. Some public subscriptions certainly *were* paid over to the Greek deputation; that of Calcutta, for instance, which amounted to 2,200*l.*; and we discovered on inquiry, to our surprise and sorrow, that only 1,200*l.* had been passed to the credit of the Greek government, while a note was attached to the entry, 'Mr. Orlando will privately account for the remaining 1,000*l.*'

But we are enabled to give an outline of the manner in which the funds of the Greek Committee have been appropriated, and we are sure public opinion will bear us out in the conviction that these funds have been well applied.

We regret that publicity has not hitherto been given to the appropriation of the money committed to their charge; but we think the time is arrived when the Committee should no longer hesitate about circulating a tolerably minute statement of the manner in which they have discharged their trust; not so much because they have been calumniated by those who would not have been less disposed to calumniate whatever measures the Committee might have taken, but in order to show that they have not only honestly, but prudently applied the pecuniary means placed at their disposal.



	£.	s.	d.
Paid for Printing-Presses, Surgical Instruments, Medicines, Maps, Expenses of Hospital Establishments in Greece, and sundry other objects not immediately warlike	1,767	0	8
For Military and Naval Ammunition, Stores, &c. . . . .	4,011	17	2
Freights, Insurances, and Charges of Shipment . . . . .	803	1	8
Wages to Artificers, Passage for Surgeons, Officers, and Expenses attaching to Persons in Greece . . . . .	2,582	9	4
Charge of Committees' Agents for Travelling Expenses . . . . .	528	1	1
Clerk, Committee-Room, Postages, Translations, small Sums given as relief to distressed Greeks, and sundry minor Expenses. . . . .	730	3	2
Printing Charges, Advertising, Bills, Stationery . . . . .	818	13	7
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	10,741	6	8

Five hundred pounds has been paid, or appropriated, towards the education and expenses of the Greek boys who have been sent to England, and this amount will, with a very small difference, balance the sum of subscriptions collected in this country. That they have been *economically* distributed, we know. There has been no expensive machinery of secretaries and clerks; no waste, no jobbing in any shape whatever; and we believe, too, that these subscriptions have been *judiciously* distributed.

The object we have proposed to ourselves is only to state the facts connected with the Greek cause in England: and if we have gone somewhat at length into the proceedings of the Greek Committee, it is because we consider that body to have represented the sympathies of English feeling in favour of Grecian independence. The measures adopted by the Committee are sufficiently eloquent to speak for themselves. They appear to us to have been altogether wise and salutary. Of the active spirit which animated that Committee; of the desire they felt to obtain the best information, and to turn it to the best account, we ourselves have seen abundant evidence. We know that several thousand letters were received and replied to by the Committee, referring to almost every subject the discussion of which could benefit Greece. For a long time they sat daily; for two years they sat weekly; and their relations extended far beyond the limits of Europe. Among them will be found the names of many of the most illustrious of our poets, of our statesmen, of our merchants; and certainly no men ever dedicated themselves more cordially to the cause they had espoused.

In what we have said, we hope not to be misunderstood. The Greek cause has suffered greatly from the delusions which enthusiasm and ignorance have gathered round it. Men have looked to Greece, not as the hapless and degraded victim of a brutalizing despotism, not as the example of what tyranny may

and will create out of the noblest materials, but a pure and beautiful, though oppressed personification of what Greece *was*, in the day of her highest glory. They were not satisfied with discovering that *some* virtues, splendid indeed and heroic, had escaped the wreck and ruin of her fortunes, but they foolishly deemed, that the pollution of servile and miserable ages had left no stain upon Hellenic fame; and then, when the vices and the crimes which slavery has created, have met their eyes, they have turned away in disgust. But virtue is always the parent, or the child of freedom. Give freedom to the Greeks, and virtue will follow in her train. If the history of Turkish oppression, and Greek submission be retraced, it will rather excite surprise, that any elements of regeneration—any hope for liberty should have been left. Elsewhere, a few generations have blended the conquered with the conquerors; but Greece is still Greece, though occupied by the Moslems. High intellectual capacity, wanting nothing but opportunity and encouragement for its full development, almost universally distinguishes the Greek people. They still possess the forms, the language, the land of their ancestors. The peasantry who are farther removed from contact with their oppressors than the primates and the aristocracy, possess estimable qualities, to which the latter are wholly strangers. “They are,” as colonel Stanhope, with great truth and sense remarks, “within the sphere of oppression, but without the sphere of corruption.”

Do we, then, despair of the cause of Greece? Far from it; the triumph of that cause is assured, however it may be delayed, notwithstanding the errors of its advocates, or the efforts of its opponents. Any compromise which should again subject the Morea and the Archipelago to Turkish domination, is out of the question. Whilst there is a mountain to which a dozen Palikari can retreat, while there is an island where a Greek Mystic can find refuge, that mountain, or that island, will represent the cause of Greece. So deeply seated, and so deadly is the hatred between Mussulman and Christian—a hatred, the growth of ages, and to which later events have awfully ministered—that nothing but complete extermination can subdue the Greeks. A land, where every arm is raised against the invader, must necessarily be redeemed at last, unless, which is very far from the case in Greece, its inhabitants are easily concentrated, and can be easily destroyed. A thousand victories will not establish the tyrant—a single decisive defeat would be his overthrow.

ART. VII.—*Memoires inédits de Madame la Comtesse de Genlis, pour servir à l'histoire des dix-huitième et dix-neuvième Siècles.* 8 Tom. 8vo. 'A Paris, et Londres chez Colburn. 1825.

**M**EMOIRS of eight volumes in extent present a formidable aspect to the generality of readers. To spin out to this length that which might perfectly well have been comprised in four volumes, must be pronounced an injudicious experiment upon the perseverance of the reading public. This being, however, precisely the sort of work which it becomes our vocation to wade through and abridge for the use of the public, it may, through the aid of our fraternity, chance to reach a greater degree of celebrity than so lengthy a piece of auto-biography could otherwise expect to attain.

There really is much entertaining matter in these memoirs ; there is also a vast deal which it is intended should be highly edifying, and not a little which is destined to prove the authoress the most virtuous and disinterested of human beings. What is chiefly valuable in the work, setting aside the amusement, is the picture it affords of the manners and the general habits of thinking and acting, which belonged to the “*ancienne noblesse*” of France. People of high birth, and especially those inheriting landed property, have, as every one knows, enjoyed from time immemorial a reputed monopoly of all the virtues and talents which elevate and distinguish the human race. Called upon, as we are from infancy, to recognize their superiority in the *abstract*, we naturally feel a desire to indulge ourselves in a contemplation of virtue and greatness in the *concrete*. But this is a matter of uncommon difficulty. The approach and contact of the vulgar is, of all things in the world, the most distressing to the “*bien nés.*” Many, indeed, are the pretended delineators of aristocratical life ; but few, comparatively speaking, seize the spirit and tone which pervade their characteristic opinions and habits of thought. It is from members of the body alone that we can obtain a faithful portraiture ; and it is by such incidental details as are found in works like the memoirs before us, that we arrive at length at a true estimate of the pretensions of the opulent and highly born. Nothing can be more useful than to examine carefully into these, and to strive to ascertain how far the reputed superiority enjoyed by the powerful is borne out by their actual attainments and moral conduct. In this work of Madame de Genlis, we find abundant details concerning the education and mode of life, common among the nobles of France ; from whence we are compelled to infer, that a more selfish, ignorant, and frivolous race, could not



well exist. Yet they possessed the exclusive exercise of political power, and would have thought it monstrous, that the industrious classes should partake of it in the slightest degree. So striking a discrepancy between the extent of their power and their fitness to exercise it, exemplifies the effects of a habit of submission among a people, and affords some ground for thinking that, had not direful distress, occasioned by famine, awakened the lower classes of France to a sense of their unequal and oppressed condition, it is probable that the Revolution might never have taken place. But we must proceed to the Countess's history of her life, which in itself is interesting from its variety and its incidents.

To begin at the very beginning : her grand-mother having married a second time, with the marquis de la Haie, and feeling no sort of affection towards the two children by the first marriage, sent her daughter (Mademoiselle de Mezières) to a convent, proposing to make her, in due time, a nun ; the other child, a boy, she sent to America, where being arrived, he escaped to the wood Indians, and became adopted by them. A curious account of what befel him in America, and of his subsequent adventures, is given in volume i. p. 95. But to return to the young lady : she strenuously resists taking the veil, and ultimately succeeds in defeating the pious wishes of her mother ; at the age of twenty-seven, being still in the convent, she had the good fortune to attract the affections of a gentleman of amiable character, some years older than herself, of good birth and easy fortune, being a "seigneur" of about £500 sterling annual income. The abbess kindly paid the expenses of her bridal, and she retired with her husband to his estate in Burgundy ; where, in the course of fifteen months, she gave birth to a daughter, afterwards the countess de Genlis. It is curious enough that, although we hear a great deal about her parents, and her brother, no mention is made of her father's name,\* or of that which she herself went by, during infancy. We are told, indeed, that when she was made a "chanoinesse," a ceremony which took place in her seventh year, she was invested with the assumed name of "De Lancy," together with the honorary appellation of "Madame," which was customary in that establishment. This name, in fact (taken from that of a place called "Bourbon Lancy," of which her father was then *seigneur*), she bore until her marriage with the comte de Genlis. It was in January 1746, that this lady first saw the light, at

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\* We think he was first called St. Aubin, and after the sale of that place, *Ducrest*,

her father's château of Champceri, near Autun. She was a puny and unhealthy infant, and continued so for many years, a circumstance which we believe to be not unfrequently associated with longevity. Many accidents also befel her, but she survived them all, and appears to have acquired ultimately a very *sane* and *sound* state of body, if we may judge from the details she gives relative to her mode of life even to the age of seventy and upwards.

The early years of Madame de Genlis's childhood were happily spent. She had a kind of governess, named Mademoiselle de Mars, who was amiable, endowed with some degree of talent, and to whom her pupil became warmly attached. One of the first accomplishments which the child was taught to acquire, was that of performing in theatrical exhibitions; a disposition to vanity and display were thus prematurely developed, and the little creature's energies were continually in requisition for this species of pastime. She even assumed, as her customary dress, the attire in which she played the part of "l'Amour," than which certainly few things could indicate more egregious folly on the part of those about her.

Her father, being somewhat embarrassed, sells his place at Champceri, and removes to the château of St. Aubin, on the banks of the Loire. There is a romantic description of this in one part of her memoirs, from whence we infer it to have been a good specimen of the old French nobleman's castle: it was close to the river, she says, yet from no one window of the edifice was the Loire visible! Here they lived throughout the year: Monsieur de St. Aubin, her father, spent his time very much as an English gentleman spends his, getting through the day by the help of field sports, and by superintending his estate. Neither he nor his lady troubled themselves about their child's improvement; all that M. de St. Aubin did, in the way of education, was to compel his daughter to take hold of toads and spiders, by way of curing her aversion to those reptiles; an expedient which, she says, never succeeded. Previous to Mademoiselle de Mars being placed in charge of her, Madame de Genlis says, "Ma mère, distraite par ses occupations particulières et par les visites continuelles des voisins, ne s'étoit jamais occupée de moi, et l'on ne m'avoit encore appris qu'un peu du Catechisme, que m'avoient enseigné les femmes de Chambre avec lesquelles je passois ma vie, et qui avoient d'ailleurs orné mon esprit d'un nombre prodigieux d'histoires de romans." After this, "Mademoiselle de Mars étoit seule chargée de mes études." These *studies* consisted in repeating over the catechism, in reading the Père Buffier's Abridgement of History, and in lessons

of music. She never was taught to write at all, but acquired that necessary art at eleven years old, by her own unassisted efforts. There appear to have been two potent propensities in this lady, one towards piety, the other towards education; she had these so strongly, that the first, she declares, was *born* in her, for this plain reason, *thât*, from her infancy, she never looked upon a starry firmament without an extraordinary emotion! The talent she possessed for instructing others developed itself also very early, by her congregating the village urchins under the castle walls to teach them all she knew herself; viz. the catechism, some “vers de tragedie,” and the rudiments of musical science.

‘Appuyée sur le mur de la terrasse, je leur donnois ces belles leçons le plus gravement du monde. J’avois beaucoup de peine à leur faire dire des vers à cause du patois Bourguignon; mais j’étois patiente, et ils étoient dociles \* \* \* \* \* Je me rendois presque tous les jours à mon école, en passant par une fenêtré; j’y attachois une corde, au moyen de laquelle je me laissois glisser sur la terrasse,’ &c.

About this time, that is to say, before she was seven years old, she was received as a chanoinesse in the chapter of Alix, near Lyons—a sort of honorary noviciate (not involving even residence at Alix) which procured for the party the future privilege of taking the veil in that well-endowed and exclusively noble establishment.

Her father had gone to Paris, in 1755; and eighteen months were now elapsed without bringing him back to his family, which continued to dwell at St. Aubin, amusing themselves with spending a great deal of money on theatricals and fêtes, under pretence of preparing to celebrate his return (not a bad hint, this, for good wives who find time move heavily at their country seats!) Among other sources of expense, a dancing-master was brought from Autun, who also taught Madame de Genlis to fence. It was then that she commenced wearing boy’s clothes; one effect of which was, she says, to make her less docile in her walks, when she did nothing but bound, and jump, and commit all sorts of *étourderies*.

She now took the small-pox, but got through a very raging attack of this odious disorder, without injury to her appearance; and shortly after, the old château threatening to tumble about their ears, her mother removed to Bourbon Lancy, where, although they lived in a hired house, they kept up their theatrical performances all through the winter of 1756. The return of M. de St. Aubin took place in the spring of 1757, and fresh fêtes, of course, followed. Shortly before they left St. Aubin, the son of a physician had declared a tender passion for



the little lady, who being shocked at the idea of “un homme qui n'étoit point gentilhomme” daring to make love to her, rejected his advances indignantly. This aristocratical feeling strongly pervades the whole of the memoirs. She never loses an opportunity of lauding the advantages of high birth; and, in many passages, she actually implies that when one is [See vol. v. pp. 14, 21] “bien né” one can hardly go wrong throughout the career of existence. Betwixt eleven and twelve years of age, our young heroine left off wearing boy's clothes, and, assuming the garments of her sex, accompanied her mother to Paris, leaving M. de St. Aubin behind. We must observe, in passing, that this family does not exhibit much disposition to conjugal attachment; her father and mother lived but seldom together, and Monsieur and Madame de Genlis, as it afterwards appears, were far from *inseparable*.

The mother and child soon became domiciliated with Madame de Belleveau, sister to Madame de St. Aubin, where many of the literary characters of that day resorted; among others, M. Marmontel: the young lady throws off in a quatrain, and is much applauded. The ensuing summer they pass at Madame de Belleveau's country-house, returning to Paris, as before, on the approach of winter. M. de St. Aubin is now discovered to be ruined; St. Aubin is sold, and the residue of his property gives an annuity of £50 to support the family. Madame Ducrest and her sister take this opportunity to fall out, and they part. Mademoiselle de Mars is discharged, to the sincere grief of her pupil; and the mother and daughter, after a short abode in a sorry lodging, repair to the hospitable residence of M. de la Popelinière, at Passy, one of the fermier-généraux, to spend the summer. At this gentleman's house, the talents of Madame de Lancy (the assumed name of our authoress), for acting, dancing, and music were assiduously and successfully cultivated. A gentleman named M. de Monville is captivated by them, and offers her marriage (she was scarcely fifteen). ‘Il étoit jeune, il étoit beau et d'un beauté noble, romanesque, élégante, qui me plaisoit particulièrement; ses manières étoient remplies de grâces, il avoit des talens charmans, de l'agrément dans l'esprit, et le caractère le plus aimable; il joignit à tout cela une grande fortune; c'étoit le seul homme de cet âge que j'eusse remarqué, et qui m'eut paru digne de l'être.’ After such a description of her suitor, will it be credited that this child's judgment was so blindly prepossessed in favour of nobility and its appendages, as to make her reject him, simply and wholly because she had resolved, in her own mind, to marry none but a man of quality, or one belonging to

the court? At least, such is her own story. It is, however, creditable to her sense, that she was aware of the frivolous tendency of her education and mode of life. ‘*Depuis que je n’avois plus Mademoiselle de Mars, la vanité étoit devenue le principal mobile de mes actions. On cultivoit si peu mon cœur et ma raison, on me louoit tant sur des choses frivoles, que j’avois pris enfin un amour-propre puéril qui me faisoit attacher une grande importance aux talens agréables qui pouvoient donner de la célébrité.*’ She sees M. d’Alembert, but is not pleased with his society—probably for the same reason which made her dislike Voltaire; namely, his being deficient in piety. She admired the tragedy of *Zaire*, until she discovered that Voltaire cut jokes upon the catholic religion, when she ceased to think it admirable.

At this period, she also formed an acquaintance with the celebrated count de St. Germain: he was supposed to possess the secret of protracting the decay incident to old age; he was at this period, to all appearance, about forty five; although he must have been, she affirms, ninety years of age. He lived sixteen years after this. We cannot afford room for the account of his character and peculiarities, which the reader will find in volume 1. page 87, *et seq.* M. de St. Aubin goes to St. Domingo to repair his fortunes; a resource not unfrequent among the French gentry at that time. It is about this time that Mademoiselle Ducrest is said to have supported herself by giving lessons on the harp. On her father’s return to Europe he is taken prisoner by the English, and carried to Launceston, where he forms an intimacy with a fellow-prisoner, M. le comte de Genlis, a younger son of a noble French family, who had served in the navy in the East Indies. The latter, being powerfully connected at the French court, got exchanged, and, returning to Paris, procured the liberation of M. Ducrest, who lived but a short time afterwards. M. de Genlis had been struck with admiration for Mademoiselle Ducrest from her father’s description of her character, as well as by her portrait, which her father carried with him; and this admiration was so confirmed by personal intercourse, as to induce him to commit an action highly displeasing to his excellent uncle and patron, M. le marquis de Puisieux. He married the young lady in secret, although he had sanctioned his uncle’s negotiations for uniting him with a rich heiress (a Mademoiselle de la Motte), permitting him to bring it nearly to a conclusion, although he was on the verge of marriage with our authoress. His patrimony was about £500 per annum; and his kind uncle, who was minister for foreign affairs, and a personal favourite of the king’s (Louis 15th), had made



him a colonel in the French guards. Utter neglect on the part of his noble relatives attended the young pair for some time after this contumacious act. M. le marquis de Genlis, his elder brother, then about thirty years of age, treated them, however, with great kindness, and received them at his "terre de Genlis," one of the finest estates in France. Our author gives his history at some length [vol. 1. page 136] which is interesting. His uncle Puisieux (who, by the way, appears to have been a most authoritative guardian) had actually shut him up by a *lettre de cachet*, in the *château de Saumur*, during five years, for having lost large sums at play, at the end of which, the debt was paid off out of his revenue. This severe measure closed his military career, which he had commenced at an early period; and he was, at the time we first find Madame de Genlis his guest, living under a sort of cloud, being prohibited from going to court, so that he spent his time chiefly at his country seat. The details and incidents of her *séjour* at Genlis (previous to this event) are most entertaining. The simplicity of French provincial manners was calculated to permit a far greater range of innocent pleasures on account of the absence of that spirit of "find-fault" (we can hit upon a no better phrase just now), which elevates frolics into sins, and circumscribes the actions of every individual within their ideas of what is proper and decorous. If we could but be persuaded to leave each other alone, in all cases where no earthly harm, or pain, or evil was capable of ensuing from an action, what an augmentation of happiness would accrue to the species? But we despair of outliving the "Mrs. Grundys" of our times, though our grandsons may possibly see them diminish in numbers and in influence. There is a description of a spoilt child, at page 180, volume 1, which is quite inimitable: we wish our space would allow of inserting it.

M. le marquis de Genlis falling dangerously ill at Paris, his brother flies to Paris to attend on him, and Madame de Genlis seizes the pretext afforded by the urgency of the occasion to attempt following him, by riding post to Paris, from Genlis. Having equipped herself and maid in boots and "inexpressibles," she peremptorily orders a couple of post-horses at the inn; but the postmaster, with unpardonable activity, runs about the town till he rummages out an old *chaise de poste*, in which she is reluctantly conveyed to Paris, without, however, doffing her male equipment. The marquis recovers; and shortly after espouses a wealthy heiress, a step which, of course, propitiates the *grande*s of his family and every thing goes pleasantly at Genlis. The countess's only brother (a youth in the engineers) spent a part of this summer at Genlis, where he and



his sister perform all kinds of childish tricks. She was far gone with child at the time of the following occurrence. Her brother invited her to go into the neighbouring village about ten o'clock one night, where they knocked at the tavern windows, crying out "*Bonnes gens, vendez-vous du sacré chien?*" et après cet exploit, il m'entraîna en courant dans une petite ruelle obscure, à côté de ces cabarets, où nous nous cachâmes en mourant de rire. Notre joie s'augmenta en entendant le cabaratiér sur le pas de sa porte, menacer de coups de *gourdin* les polissons qui avoient frappé aux vitres. Mon frère m'expliqua que *sacré chien* valoit dire de l'eau-de-vie : nous répétâmes plusieurs fois cette agréable plaisanterie, nous disputant à qui diroit *sacré chien*," &c. &c. In 1765, Madame de Genlis gave birth to a daughter,\* which event led to a commencement of an intercourse with her husband's relatives. The marechale D'Estrées, daughter of M. et Madame de Puisieux, came to see her, bringing her presents, and announcing that her mother would carry her to court when she should be recovered from her lying-in. This ceremony took place accordingly in the fulness of time, preceded by a perfect penance on her part. Her account of the torments of preparation, the painting and disguising of the victim for the occasion, &c. is amusingly given. It passed off well, and she discovered (as who does not, indeed, when a king is in question?) that there was "a something" about Louis 15th, which eminently distinguished him from other men!

The two brothers and their wives "dwell together in unity" at Genlis. The activity of mind which belonged to the countess, employed itself in study, and in teaching whoever would learn music; instructing the marquis how to *spell*, and *doctoring* the poor. She had learnt to let blood, and the peasants came readily to be operated upon, seeing that a donation of thirty sous usually followed the process.

This summer they go to pay a visit near Rheims to the old marquise de Dromeuil, for a week, she having consented at length to receive her offending grandson and his wife. The end of this was, that she took so great a fancy to the latter, that she would hardly part with her at the end of two months, when M. and Madame de Genlis go to Madame Boulaïnville's château in Normandy. Here, comedies again—audiences of five hundred persons. Acting, in fact, constitutes the savour of life with these people! They go to Paris in the winter of 1766—1767.

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\* She married a M. de Laurestine, of noble birth, and died some years since.

Our author formed some close friendships about this period with several women of quality, who were, according to her description, very charming and sensible persons. It is, however, remarkable, that all her friends are as beautiful as they are amiable, while on the contrary, the ladies who are not to be found in her list of admirers, are invariably ugly, ill-tempered, and malignant. One of her friends, Madame de Custines, does indeed seem to have been indeed endowed with many valuable qualities; and had she lived to direct the actions of the weaker-minded Madame de Genlis, she might have been spared much of the unhappiness which subsequently befel her. The countess had a second child,\* in 1766, after which Madame de Montesson took her to L'Ile Adam, the seat of the prince de Conti. At this place were regularly assembled in the summer season all the most distinguished people about the court; critics in "bon goût" and "bon ton"—the supreme arbiters of fashion, in short. Thus it was an epoch in the author's life to find herself amongst these *first-rates*. "Jusques là j'avois gardé dans le monde un profond silence; je ne parlois que dans l'intimité; on ne louoit en moi que ma figure et ma harpe: ma reserve et ma timidité faisoient mal augures de mon esprit. Quand on questionnoit ma tante à cet égard, elle répondoit seulement que j'étois une bonne enfant, et naïve comme Madame D———une femme de trente-six ans, d'une simplicité fameuse, parcequ'elle conservoit dans un age mur toute celle qu'elle avoit eue à quinze ans, ce qu'on attribuoit avec raison à la bêtise la plus rare qu'on ait jamais eue dans le grand monde."

The style of living at L'Ile Adam was magnificent. Each lady guest could invite those among the guests whom she chose, to dinner in her private apartment. The company staying there at one time might amount to one hundred persons. Each lady could command a separate carriage to drive out. Madame de Genlis's talents are at length disclosed to the company at Ile Adam. Proverbs are to be acted, a pastime much in vogue in those days. She excites general surprise and pleasure by her performance: now that the harp also comes into play she begins to be duly appreciated. On leaving Ile Adam, the aunt and niece go to Villers-Cotterets, the château of the duke of Orleans. Here they act comedies and proverbs till the aunt, who wishes to improve the duke's nascent partiality into a passion towards herself, becomes rather annoyed at her niece's excellence throwing her own accomplishments into the shade. It seems, that owing to Orleans's having for many years devoted himself to a

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\* Afterwards married to M. de Valencé, a distinguished nobleman.

certain courtesan, his house had been up to this period closed to women of reputation; a circumstance which the court ladies deemed most vexatious, as Villers-Cotterets and its pleasures, combined with the company of a *prince*, left nothing to be desired, as a summer resort.

These ladies objected, it will be observed, not to Orleans keeping a *mistress* at Villers-Cotterets, but to his having one of low birth.

‘On devoit le voyage brilliant dont nous étions, à Madame de Montesson : ainsi les dames desiroient passionément que ma tante achevât de tourner la tête à ce prince ; il leur étoit beaucoup plus agréable qu’il eut pour maîtresse une femme de la société qu’une courtisane, parcequ’ alors l’intimité du prince leur seroit rendue.’ p. 263.

On leaving Villers-Cotterets M. and Madame de Genlis repair to the château de Sillery, the property of the formidable uncle M. de Puisieux. A capital scene takes place between Madame de Puisieux and her niece, which terminates in the tenderest manner, and with the truly feminine accompaniments which Madame de Genlis never fails to add on similar occasions, torrents of tears, and a vow of eternal attachment. After this, all goes charmingly at the Château de Sillery. A large library formed one of its attractions, and Madame de Genlis read assiduously, making copious extracts ; a circumstance which shows her to have entertained a sincere ardour for acquiring knowledge, since those who merely read for amusement never take that trouble.

Winter arrives, and the family moves from Sillery to Paris, where the usual round of soupers, soirées, balls, opéras, acting proverbs, &c. ensues. We are presented with a sort of catalogue raisonnée of the individuals composing the society of her aunt Montesson, mostly persons of distinguished rank. Bad step-mothers were unknown at court, we find ! “elles étoient alors *reléguées* dans la Bourgeoise, et surtout dans la classe du peuple. La révolution a bien pu en introduire quelques unes dans le grand monde, mais le sentiment qui les produit est si *ignoble* qu’il ne s’y perpétuera pas.” This insolent claim to superior virtue on behalf of the aristocracy is quite in keeping with the whole tone of Madame de Genlis’s writings. She placed her ambition in becoming closely connected with the nobility of the court, and she earns their countenance by the most unremitting flattery, and a servile devotion to their interests. It is not to be wondered at that she should, in the end, find occasion to upbraid the ingratitude of this class of persons. Kings and other great potentates feel no more obligation to an old worn-out servant, than to a worn-out pen ;



for, with the rewards they can bestow, the one is as easily replaced as the other. In fact, she bitterly complains, in the sequel of these memoirs, of the Bourbons, who, when restored to power, neglected one who had done so much to fortify the principles of absolute monarchy, and to support the priestly interests. The truth is that, in addition to the cordial hatred which the royal family bore her on account of her connection with the duke of Orleans (Egalité), and owing to her being the supposed authoress of several bitter anonymous publications against the queen at the beginning of the Revolution, there was abundance of new pens ready to do the same thing. Such mortifications are part of the inevitable course of a "servile" career. We find Madame de Genlis with her aunt again at Ile Adam in the summer of 1767. The oracle of "*bon ton*," Madame la marechale de Luxembourg, being there also, a droll anecdote is told of her criticising some prayers, which she pronounces to be in "*mauvais goût*." Madame de Genlis respectfully submits, that, provided they be sufficiently pious, it cannot be imagined that God will care about their "*bon*" or "*mauvais ton*." "*Eh bien,*" madame s'écria la marechale, très sérieusement, "*ne croyez pas cela!*"—Vol. i. p. 316.

The business of life with these people was, to be interesting and amusing in society. To be *well with the ladies* was with the gentlemen the first of accomplishments. If not as a lover, as a *confidant*; many men, unequal to the first rôle, contenting themselves with the second, which secured to them a certain measure of patronage from the fair. It was quite natural that, under a despotism like that of Louis 15th, there should, in peace, be little occupation for the nobility besides cultivating the arts of society. Politics were forbidden ground. Science was left to a few laborious individuals. The fine arts were not practised by the opulent: even ordinary musical proficiency was excessively rare; travelling was rarely resorted to for amusement. Literature was cultivated by literary men alone, the great being often unable even to spell correctly. A certain measure of dramatic knowledge and a turn for epigrammatic verses, with occasionally some general notion of French history, seem to have comprehended all that was required in a nobleman of those days. Many of them, it is true, were remarkable for the brilliancy of their conversation, and the felicity of their repartees; qualities which, however, prove little more than a natural quickness of intellect habitually exercised, neither in thought nor the acquisition of knowledge, but in carrying on the ordinary intercourse of society, and are consistent with a profound ignorance of every thing but the art of passing time, without

the aid of either pursuits or duties. It is the interest of absolute monarchy to keep down education to this level, and, above all, to prevent men's minds from dwelling upon the subject of political science. Madame de Genlis, faithful to her patrons, therefore, declares that to renounce all concern with the affairs of government and public matters is an infallible proof of an excellent understanding.

Upon a fair review of the picture which our authoress gives of the character and occupations of the great, both in Paris and at their country seats, we think it incontestable that the higher classes of the French were a most ignorant, frivolous, and unprofitable race. They maintained a continual supremacy over the lower classes, not by any real superiority of education or intellect, but through the aid of the power of the monarch, whose own greatness was in its turn supported by them. The poor plebeians could do nothing but bend to the yoke, under a state of things where all communication between one province and another was carried on by couriers, and where the acts of government were unknown, save by rumour. Each powerful seigneur was, in his own neighbourhood, a despot, and a despot not only over the poor, but over the subordinate members of his own family. Even a wife might be clapped up (by a "lettre de cachet") for life, at the will of those tyrants, and we read of endless acts of oppression on their part in the *Memoirs de Dangeau*, and others, not to mention those adverted to by Madame de Genlis, such as M. le marquis de Genlis's imprisonment by his uncle for five years, for instance. All these woful impediments to the happiness of a community are passed away. But Madame de Genlis thinks the loss of the *manners* of that day far more than an equivalent for the change! The security now enjoyed against injury by every roturier in France, is held cheap in the eyes of one who remembers the "ancien régime," when "coups de baton," and dungeons, were dealt out at the nod of the "seigneur." There is no doubt but that the spectacle of a country seat and its diversions, such as she represents *Sillery* and *Villers-Cotterets*, is very attractive, and that, under a benevolent despot, all the relations between lord and peasant may be devoid of injustice and cruelty. But where irresponsible power exists, it may also, at any moment, be used to inflict pain and misery; and although the present seigneur may be amiable, his heir may prove a very demon. Such is the aspect in which this system of things is to be viewed, with reference to the well-being of a civilized community. But it is one which Madame de Genlis has never contemplated, for she has no enlarged notions whatever upon the structure of civil society

She laments the change in manners since the revolution. Why? Because women are no longer treated as beings of a different species from men. We have just now observed that, in the old times, men had so little to occupy their minds, that it was an object with them to make gallantry an art and a study. They have now a wider range of pursuits, and less motive to devote themselves exclusively to this refinement of the passion.

We learn from Madame de Genlis, that the ladies of her day were ignorant to the last degree. Spelling, even, was considered an accomplishment—music rare—literary knowledge never thought of—geography equally so. In fact, to “broder” appears to have comprised the whole of a young lady’s acquirements, and they accordingly passed the greater part of the day at this work. We do not mean by what we have said of the aristocratical habits of life, to imply that the individuals were uniformly vicious and hateful. On the contrary, it appears that they were, generally (judging from the memoirs before us which, to be sure, offer a favourable testimony) amiable in their relations with their families and intimates. But we do mean to say that this is no more than might have been predicated of the bourgeois and the roturier, whom they despised, whilst the usefulness to society of the latter was unquestionably greater; and that when we come to sift the claim of the noblesse to superiority it consists wholly in a certain description of manners which this class conventionally practise towards each other, and agree to call by a certain name. All we would wish is, that this class should be estimated at their true value—neither disparaged nor unduly extolled; and that the privilege of exercising political power should not be assigned to any class of persons in particular, much less to a class whose qualifications for executing the task of legislation rest simply upon the possession of wealth and rank.

Our authoress makes acquaintance with Rousseau, under somewhat droll circumstances. The sensitive philosopher and she maintain an amicable intercourse, until their friendship is shipwrecked upon the rock of his egregious vanity. The story is too long for quotation, but affords a striking instance of Rousseau’s morbid egotism.—Vol. ii. p. 12.

Madame de Montesson’s old husband at length makes his exit (in 1768), having lived to the unconscionable age of ninety; whereupon the young widow (young, at least, in relation to him, being then only thirty-two) commences operations in good earnest upon the heart of the duke of Orleans. Her niece is honoured by a disclosure on this subject, which is cleverly related: M. le Duc, however, showing symptoms of cool-



ness, she feigns loss of appetite and sleep ; eating scarcely any thing in the prince's presence, but indemnifying herself in private for this politic fast. The tender fair one, having on one of these occasions applied herself to a wine posset, is surprised by her lover, who, scenting out the savory mess, puts her into terrible agitation. The lady departs for Barège, leaving Madame de Genlis *plenipotentiary* to manage her affair with the prince, who visits her, it is true, but it is to entertain her with the details of his "bonnes fortunes !" "Mon étonnement, qui se peignoit sur mon visage, divertissoit à l'excès Monsieur le Duc ; j'avoue que je demandai les noms—on me fit promettre le secret (que je n'ai jamais trahi) et tout me fut révélé." Oh ! for the purity of manners of the "good old times !" Madame de Puisieux now takes our authoress to Villers-Cotterets, where she receives immense applause for her diversified talents, as exerted to amuse the noble idlers, and where she seizes every opportunity of flattering D'Orleans into a passion for the ambitious Montesson.

Here we leave the duke, and follow the amiable Madame de Puisieux and her niece to another splendid country seat in Normandy, belonging to the president Portal ; where the business of amusing each other appears to have been carried on by the company assembled there with astonishing vigour. Such theatricals were exhibited as drew crowds of spectators from the adjacent towns. After five weeks spent at Vaudreuil, they retire to Sillery, where the usual assemblage of noblesse were convened.

Her aunt's plan now begins to mature itself ; for the weak prince, persuaded of her fondness, actually offers to marry her secretly. But, wishing to make the most of her conquest, she declared she would not give him her hand, without his son, the duke de Chartres' consent, and the king's permission. These preliminaries being obtained, under certain conditions, she violates them towards both Chartres and Louis, and marries the prince ; M. de Chartres breaks with her for ever in consequence. The presentation at court of the infamous Madame du Barri is witnessed by Madame de Genlis. The ladies of the court exhibit the most undissembled indignation thereat, and crowd upon one another, to avoid touching the odious creature.

M. and Madame de Genlis live in the hotel de Puisieux with their kind relatives and benefactors, where she sees all the best society of that day ; amongst others, the abbé Raynal, of whom her abhorrence is quite ludicrous ; but people at all given to heterodoxy always are detestable in her sight.

M. de Puisieux dying, is discovered to have been one of the society of Jesuits. "On trouva sur sa poitrine les marques de son affiliation à cet ordre." Here follows a brief statement of the contract entered into by the individual, with that body, together with the advantages promised to him on their part in return. —Vol. ii. p. 116.

After some months passed in seclusion with the truly disconsolate widow, Madame de Puisieux, her niece emerges again into the world on the occasion of the fête in honour of the dauphin's marriage, memorable from the dreadful loss of human lives which unfortunately resulted from it, and which Madame de Genlis affirms was caused by small hollows in the Place of Louis 15th, into which some persons stumbling, threw down others, whom the crowd trod to death. She, however, after sundry delays, regains her aunt's house in safety. Her own waiting-woman, it seems, lost a sister in this sad affair, which caused much grief and regret throughout Paris *for several days!* A misfortune now befel Madame de Genlis, which was irreparable indeed; it was the loss of her truly valuable and enchanting friend, Madame la comtesse de Custines.\* The portraiture of this lady, as given in several passages, offers a rare combination of the attractive and the solid virtues, and her loss was painfully felt by Madame de Genlis, who was accustomed to depend upon her for sound advice on all occasions. She had made her a promise, not to become a lady in waiting (or dame d'honneur), at the Palais Royal (a place which was proffered to her in Madame de Custines' lifetime), foretelling all kinds of evil from such a step. After this discerning friend's death, however, the temptation of entering that brilliant establishment was too great to be withstood, and after a sham consultation with her aunt Puisieux, behold the countess, now in her twenty-fifth year, (1770) "dame d'honneur to Madame la duchesse de Chartres, daughter and heiress of the Duc de Penthièvre." She gives a kind of gallery of portraits, of all whom were familiarly received at the Palais Royal, few of who seem either to have attracted or merited her esteem; Madame de Chartres, however, conceives a lively preference for her new lady of the bed-chamber (as we should call it in England), and, under her auspices, begins to study geography and spelling! The duchess takes her to Ile-Adam (the château of the prince de Conti), where a successful war against ennui is carried forward, by means of stag-hunts, fêtes, comedies, &c. Madame de Genlis spends a good deal of her

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\* Wife of Le comte de Custines, who afterwards commanded in the armies of the Revolution.

leisure in reading, and extracting passages from works which she considered instructive. Indeed, her industry in this way is quite exemplary; and had her studies been sagaciously directed, she must have acquired a vast stock of useful knowledge. But she was not likely to receive any useful assistance in her studies, since she held in abhorrence the society of the most instructed men of that period on account of their imputed scepticism in religion. Madame de Genlis endeavours, with unceasing repetition, to fasten upon the sect of the philosophers a reputation for immoral and unamiable habits of life. Now, it is a well established historical fact, that the private character of these persons was, almost to a man, virtuous, and that they enjoyed the affections of those who associated with them in an eminent degree. Madame de Genlis expresses her *surprise* at finding that the daughter of Helvetius (whom she became acquainted with at Paris) was an amiable person! By these artful insinuations, she strives to sustain her favourite dogma (a dogma which she inculcates on all young minds), that unbelievers in Christianity can neither do, say, nor write any thing conducive to human happiness. The female portion of the philosophers, too, she maliciously attempts to depreciate, using the expression “une conduite philosophique,” to designate *unchaste conduct*! Surely such mendacious effrontery ought to be visited with the deepest censure.

About the year 1775 the countess, having suffered in her health, from illness and the loss of her son (a promising boy of five years old), goes to Spa, whence she makes a further journey into Switzerland. Strange to tell, she resolves upon paying a visit to Voltaire, who, as well as the other philosophers is the object of her peculiar detestation; she actually conceived the project of encountering the arch infidel in his own Château de Ferney. We conclude that, hating him as she did, she could have had no other design in going than that of *converting him*. Be this as it may, the lady acknowledges that she took great pains with her toilet, which looks very like a plot upon his affections. The whole description of what passed on this occasion is entertaining, and, as is usual with the author's narratives, excellently told.

‘Je n’avois point pour lui des lettres de recommandation; mais les jeunes femmes de Paris en sont toujours bien reçues. Je lui écrivis pour demander la permission d’aller chez lui. \* \* \* \* \* Le philosophe de Ferney me fit une réponse très-gracieuse; il m’annonça qu’en ma faveur il quitteroit ses pantoufles et sa robe de Chambre, et il m’invita à dîner et à souper.’

No sooner has this favourable answer been received, than



the countess begins to be sadly mistrustful of her ability to assume a proper measure of *enthusiasm* in her manner towards the great man. "Il étoit d'usage, surtout pour les jeunes femmes de s'emouvoir, de palir, de s'attendrir, et même de se trouver mal, en apercevant M. de Voltaire; on se précipitoit dans ses bras, on balbutioit, on pleuroit, on étoit dans un trouble qui ressembloit à l'amour le plus passionné. C'étoit *l'étiquette* de la présentation à Ferney." In hopes of fanning herself into something like a sentiment of admiration, Madame de Genlis employs herself on the road thither in reciting some of the finest passages in his tragedies; whilst her companion, M. Ott (a German friend of hers), who had never read a single line of his, is in ecstasies at approaching the abode of the renowned Voltaire. They arrive too soon, as it turns out, disturbing the poet before his usual hour; a circumstance about which, however, our pious visitant is indifferent, *since* she was persuaded it only prevented his penning a few extra impieties. Her dress becomes thoroughly disordered by a preliminary scramble through the grounds with the ladies, and she comes into the presence of the philosopher "décoiffée et toute ébouriffée, et j'avois une mine véritablement piteuse, et tout-à-fait décomposée." The *rencontre*, nevertheless, passes off well enough, till the entranced M. Ott, in order to attract some attention from the company, draws forth some miniature paintings of his performance. Among these was one of the Virgin and Child, whereupon Voltaire could not resist letting off some jokes, highly offensive to our fair "dévoté." The announcement of dinner gives a seasonable turn to this (to say the least of it) ill-bred discourse, after which Voltaire and his guests drive out, in his *berline*, through the environs. She takes her leave late in the evening to return to Geneva. Some observations of the authoress upon the excessively irritable state to which Voltaire had been wrought up by idolatrous flattery, are in a great measure just, and show how depraving it is to the human mind to live with flatterers alone.

Madame de Genlis returns to the Palais Royal in the autumn of 1776, after several months absence. The following winter she exhibits her two daughters, now about ten and twelve years old, in private theatricals, where they display great talents. Her life indeed passed merrily at the Palais Royal. She gave musical parties, at which Gluck himself constantly assisted, weekly *conversazione*, and she had leisure for pursuing her favourite occupations of reading and planning literary works. Just at this time, M. de Chartres, wishing to get the appointment of admiral of the fleet, proposes a sea excursion, by way of

qualifying his pretensions to the place. Madame de Genlis, who had a passion for locomotion, easily persuades the duchess to accompany him to Toulon, passing through Bordeaux, where the royal party was abundantly fêted. M. de Chartres having embarked at Toulon, the duchess proceeds with her suite to Italy, alleging as an excuse for leaving the kingdom, her desire to see her grandfather, the duke of Modena. To his palace they actually proceed, and some amusing anecdotes arise out of their visit there.

At Venice, our authoress excites a great "sensation" by her harp-playing. Strange to say, that instrument appears not to have been introduced into Italy at this period. At Rome they lodge at the house of cardinal Bernis, who, with his nephew, is regularly summoned by Madame de Genlis *when in the bath*, to talk with her. The cardinal tells her, among other things, that the morals of the lower order of people were very pure. "There were frequent *murders*, to be sure, but then *adultery* was rare?" Not a bad sample this of the sacerdotal mode of viewing morality.

The cardinal Albani, too, displays his idea of right and wrong in the following manner:

'Le Prince de Palestine avoit eu dans le jardin de sa maison de campagne, un superbe obélisque antique, qu'il refusa de vendre au cardinal Albani. Peu de temps après le prince fit un voyage; alors le cardinal envoya dans la nuit quatre mille hommes, qui entrèrent de force dans le jardin, enlevèrent l'obélisque et le lui apportèrent, et il le mit dans son jardin à la villa Albani.'

This prince was the father of the unhappy duchesse de Cerifalco, upon whose history the affecting drama of "*Le Souterrain*" was founded. Her father related the particulars to Madame de Genlis, who has introduced them in her *Adèle et Théodore*.

Arrived at Paris after the tour in Italy, Madame de Genlis publishes the first volume of her "*Théâtre d'Education*" (for a benevolent purpose), which met with great success. Madame de Chartres now confides her twin daughters, aged twelve months, to Madame de Genlis's care, and she retires with her infantine charges to "*Belle Chasse*," a convent, adjoining to which she had caused suitable accommodations to be erected.

Here she pursued the business of educating the children of the duke of Orleans with much zeal and to the entire satisfaction of the duke, till, upon the Revolution breaking out, she becomes alarmed and wishes to quit Paris. The duke d'Orleans connects himself with the Jacobin party, and our authoress is well known to have shared his sentiments at that period. She subsequently

changed her opinions on this subject, and remains to this day a most devoted adherent of legitimate monarchy. To reconcile these two facts appears to be an object of anxiety with her, but the simple truth we believe to be, that her attachment to the duke d'Orleans alone led her to sympathise with his revolutionary leanings, so that when he fell a victim to the faction of the Montagnards, she naturally resumed that tone of admiring loyalty which had possessed her from childhood. Madame d'Orleans it seems had for some time withdrawn her confidence from Madame de Genlis, and seldom saw her, although, as it was her husband's pleasure, their children were still under her care. The reason why this princess shunned the governess of her children is sufficiently notorious, we apprehend; yet Madame de Genlis is at a loss to guess it! Some degree of credulity, however, is requisite to believe this, when we find her continually consorting with the duke, going to his country house, in his wife's absence, receiving visits at all times from him; and all this without so much as *guessing* that her conduct must lie open to censure!\*

She demands permission of the nation to go to England with her pupils. They are prevented from going by the unexpected

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\* Madame de Genlis's affected unconsciousness of the cause of the duchess's avoidance of her, and of the prudery which distinguishes the whole of these Memoirs, is oddly contrasted with this passage from the "Memoirs published from the Journal, &c. of the Princess de Lamballe," the sister-in-law of the duchess:—"The princess was tenderly attached to her sister-in-law the duchess. Her attachment could not but make her look very unfavourably upon the circumstance of the duke's subjecting his wife to the humiliation of residing in the palace with Madame de Genlis, and being forced to receive a person of morals so incorrect as the guardian of her children. The duchess had complained to her father, the duke of Penthièvre, in the presence of the princess de Lamballe, of the very great ascendancy Madame de Genlis exercised over her husband; and had even requested the queen to use her influence in detaching the duke from the connexion. But she had too much gentleness of nature not to presently forget her resentment. Being much devoted to her husband, rather than irritate him to further neglect by personal remonstrance, she determined to make the best of a bad business, and tolerated Madame de Genlis, although she made no secret among her friends why she did so. Nay, so far did her wish not to disoblige her husband prevail over her own feelings, as to induce her to yield at last to his importunities, by frequently proposing to present Madame de Genlis to the queen. But Madame de Genlis never could obtain either a public or a private audience. Though the queen was a great admirer of merit, and was fond of encouraging talents, of which Madame de Genlis was by no means deficient, yet even the account the duchess herself had given, had her majesty possessed no other means of knowledge, would have sealed that lady's exclusion from the opportunities of display at court which she sought so earnestly."—Vol. i. p. 167-9.



evasion of Orleans himself. After his return in 1791, in the very crisis of public affairs, Madame de Genlis resigns her charge, and travels into the provinces of Auvergne and Franche Comté, to *amuse herself*. Mademoiselle d'Orleans, however, falling sick, she is induced to resume the care of her, and carries her to England, escorted by Petion, a distinguished member of the National Convention. In the course of her residence in this country, which lasted about twelve<sup>e</sup> months, she became acquainted with many political characters of that day, amongst whom Sheridan was one. Orleans insisting upon her bringing his daughter back to Paris, she resolves upon compliance, and accordingly sets off for Dover, when that extraordinary adventure, which has already been laid before the public in Sheridan's life, befel her, and caused her to return to his house at Isleworth. Mr. Moore suspects that he contrived this incident in order to prolong his opportunity of making love to Pamela, a lovely girl whom Madame de Genlis tells us she procured from England at an early age as an associate for the young princess, to teach her English, as well as to enliven her studies by competition. Fame assigns a very different origin to this young lady. Sheridan detains the ladies some weeks at his house, whence they finally depart for France. Pamela having accepted Sheridan's offer of marriage, Madame de Genlis engages to bring her back as soon as she shall have placed Mademoiselle d'Orleans under her father's protection. But the Convention treat this young person as an emigrant, and order her to quit France. The duke implores Madame de Genlis to conduct her pupil to Tournay, which she consents to do, upon his solemnly promising to send some one to take charge of her speedily. On their way to Belgium they meet with lord Edward Fitzgerald, who straightway falls desperately in love with Pamela. No time is lost in courtship, for in three weeks she becomes his wife, in spite of the absolute engagement she lay under to marry Sheridan! Whilst at Tournay her husband (of whom we have scarcely any mention for several years, but who is become *Marquis de Sillery* with the inheritance of that princely estate) wrote to advise her quitting Belgium, as an unsafe asylum. He remained at Paris, voting in favour of close imprisonment in preference to putting the king to death. He appears to have acted firmly and conscientiously, and not to have been inimical to a reform in the government. He was too wealthy, however, to escape the destruction which raged during the reign of terror, and fell under it shortly after this period. The Countess escapes with Mademoiselle d'Orleans and the duke de Chartres into Switzerland, where they are hunted about

by the local authorities. At length the Princesse de Conti grants her kinswoman an asylum in her family, and our authoress repairs to Holland. For nine months she lived *incognito* at a small inn at Altona, after which she proceeded to Hamburgh (April 1795), and resided with her son-in-law, M. de Valence, who had left his country during the revolutionary storm. During her abode at Altona, "J'appris singulièrement la mort de Robespierre, à une heure après minuit. Je fus très surprise d'entendre frapper à ma porte à coups redoublés ; et je m'étonnai davantage en reconnoissant la voix de mon paisible voisin M. de Kersey. Il me cria : ' Ouvrez, ouvrez, il faut que je vous embrasse.' Comme je résistois à ce singulier désir, il répéta plusieurs fois, ' C'est vous-même qui m'embrasserez, ouvrez, ouvrez !' Enfin j'obéis. M. de Kersey se jette à mon cou, en disant, ' Le Tyran n'est plus, Robespierre est mort'. En effet, à ces mots, je l'embrassai de moi-même et de tout mon cœur," &c.

The countess next settles *en pension*, at Berlin—whence she is soon chassée by the king of Prussia's order. This was a cruel blow, since she was remarkably well placed with a Mademoiselle Bocquet, and moreover found at Berlin a sale for her works, which were now become her only source of revenue. Not very long after this, however, the old king was "gathered to his fathers" and he who reigned in his stead giving her full permission to return to Berlin, she gladly re-establishes herself with Mademoiselle Bocquet. Here she supports herself by industrious composition, a circumstance which cannot fail to create for her, as well as for every one under similar difficulties, a strong sympathy. She was afterwards involved in more serious pecuniary difficulties, which nothing but the attachment of the virtuous *Casimir* prevented from overwhelming her. This young man is one of the most charming characters in the memoirs, and his tender attentions must have softened the afflictions of his benefactress in a most consolatory manner. Madame de Genlis took him from his parents (who were peasants) whilst she was in Prussia, and brought him up as an adopted son. She returns at length to Paris, Napoleon being Emperor, bringing Casimir along with her. In her way through Hamburgh she receives a long visit from Klopstock, which she describes with her accustomed vivacity and effect. But we must attend her to Paris. Upon the changes which had taken place there during her absence, she opens the flood-gates of her eloquent lamentations. The names of saints (in the streets) had given place to those of *Philosophers* ; foot-stools had come into vogue, new phrases were in use, *boudoirs*



are introduced, ladies reclining on sofas, permitted the foot to be distinctly seen, and even, *sometimes, a small portion of the leg!*

The fact is, that her very great ignorance of what is essentially good and evil in social and political affairs render her remarks on the changes operated in France painfully puerile and worthless. Napoleon gave Madame de Genlis, what she stood sadly in need of, a pension of six or eight thousand francs, and he also granted pensions to several persons at her instance. The price she is understood to have paid for it was the performance of a duty which ill-natured people will consider a kin to that of spy—viz. a monthly report of “the moral state of certain classes of society, which she had an opportunity of observing, for the private use of the Emperor.” She speaks of his kindness with becoming gratitude, and says, with truth, that he was the only sovereign who ever befriended her. There are few things of any interest in her details of Napoleon’s vicissitudes; and the few there are appear unsupported by any good evidence. Her *determination* to see the “hand of Providence” in every trivial occurrence precludes her indeed from taking any enlarged view of political causes and effects. The remainder of these memoirs, after the final restoration of the Bourbon dynasty, consists of the literary chit-chat and current incidents of the capital, where our authoress settled and still resides.

Her *adventures* are, of course, pretty well concluded at seventy years of age; but the last three volumes contain a good deal of pleasant light reading, literary anecdotes, &c., mingled with some neat sarcastic exposures of the various follies and affectations of people in high life. As a specimen of this we give (in the original, for translation could not fail to spoil it) the following passage:

‘A croire les gens du monde, on doit être persuadé qu’ils n’aspirent qu’à la retraite, et qu’une vie simple, champêtre et solitaire, est l’unique objet de leurs désirs. Les femmes surtout sont inépuisables en gémissemens et en phrases sentimentales et philosophiques sur le bonheur de l’indépendance et de la tranquillité sédentaire. A les entendre, elles ne sont que des esclaves infortunées, forcées d’agir en tout malgré leur volonté secrète et contre leur inclination. D’après ces discours, il faut penser qu’elles seroient infiniment plus heureuse dans une Chaumière ou dans la grotte paisible d’un désert. Sont-elles au spectacles, elles en sont excédées, elles trouvent la comédie insipide, cependant elles ont des loges, ou elles en empruntent sans cesse. Sont-elles invitées à un grand diner; quelles lamentations sur la nécessité de se parer, et sur l’ennui mortel de la représentation; et elles passent journellement trois ou quatre heures à leur toilette, et se ruinent en schalls, en habits et en chiffons \* \* \* \* Font elles des visites: quelle désolation sur cette usage et



sur la *perte de temps* qu'il cause ! et tous les matins elles sortent régulièrement et ne rentrent qu'à l'heure du diner. En fin donnent-elles des assemblées et reçoivent-elles beaucoup de monde : quelles plaintes amères de la fatigue ! quelles courbatures, quelles migraines sont les suites inévitables de l'obligation cruelle de faire les honneurs de sa maison,' &c. &c. — Vol. vi. p. 29.

We suspect there are other fashionable circles than those of Paris, to which this lively caricature would apply with justice.

About the year 1816, our authoress undertook to prepare, for the press, the “*Memoirs du Marquis de Dangeau* ;” containing a vast quantity of details concerning the reign of Louis the 14th, with anecdotes of his court and nobility. The manuscript had been preserved among the archives of his royal descendants, and, at her own request, it was confided to Madame de Genlis to make public. The manner in which she executed this task forms one of her strongest claims upon the gratitude of the Bourbons, and of all crowned heads in general. She committed, in their service, two crimes (for we can call them by no other name, so mischievous do we hold them to be) ; first, that of suppressing certain historical facts contained in the original documents ; and secondly, that of adding and interpolating matter of her own, with the text of Dangeau. This is plainly a poisoning of the sources of history, than which few actions are more decidedly reprehensible. We are indebted to a contemporary writer, M. Lemontey, since dead, for the proofs of this shameless falsification. He has supplied one thousand articles which the loyal devotee had entirely left out ; he has likewise exhibited a sample of the manner in which she mutilated others.

A more edifying *recueil* than these, there cannot be found ; and the naïveté with which the courtier jots down, as ordinary incidents, facts which indicate a system of the most revolting cruelty and oppression, affords an assurance of their being truly reported. We earnestly recommend to our readers, the work of M. Lemontey : the “*Notes d'un Anonyme*,” which he has likewise snatched from oblivion, are highly piquant. We regret, sincerely, that we cannot insert more specimens of Madame de Genlis's disingenuous contrivances for eluding the just indignation of posterity towards Louis the 14th ; one, however, we must quote :—This sublime monarch, after exhibiting sundry proofs of his fervent piety, and having received, on his death-bed, the holy sacraments, sent for the duke d'Orleans, to whom he addressed the most deceitful language respecting his will ; leading d'Orleans to believe that he had bequeathed the

regency to him, which, as every one knows, was not the fact. Madame de Genlis gives the commencement of the paragraph thus :—

“ *Dimanche (Sunday too ! ) 25 Auout, 1715.*

‘Après avoir reçu ses sacremens, le Roi envoya quérir M. le duc d’Orleans, lui parla long temps avec beaucoup d’estime et d’amitié,” so far, and no farther the female editor. “Et l’assurant qu’il ne trouveroit rien dans son testament dont il ne dût être content, lui recommandant la personne du dauphin et l’intérêt de l’état.” This, restored by M. Lemontey, who subjoins the following note. “Cette dissimulation dont le Roi mourant usa avec son neveu, et qu’atteste M. Dangeau, est un trait caracteristique qui doit être conservé pour l’histoire.’

We must now take our leave of Madame de Genlis. We could have wished to have given some account of her various works, especially those which relate to Education, but our limits forbid more than a brief statement of what we consider her pretensions to amount to, in the scale of literary merit. She says, candidly enough, that she has had to encounter the hostility of *all* parties and *all* critics throughout her literary career. No one was ever known to take up her cause, not even among her dearest friends ! [vol. vi. p. 224.] It must be confessed, that no writer, whom we ever heard of, could support this deficiency better ; for we find such a prodigious quantity of self-laudation in the memoirs, that the praise of other people is rendered quite superfluous. She modestly puts in her claim to every sort of pre-eminence that can attach to a writer of prose, [See vol. vi. p. 224 *et seq.*] It may be justly said of her, that she provided for young persons a great many books of a far preferable stamp to those miserable works of fiction which formerly constituted their sole amusement. Among her works is scattered a considerable knowledge of the natural sciences, and they contain many salutary maxims of practical utility in education. Her style, though rather too idiomatical, is remarkably good, her narrative style especially ; and her sentimental effusions are skilfully managed. She had, in short, a great deal of talent for literature and the fine arts, and we have only to regret that it has been expended upon objects of minor importance. She has charmed and amused her contemporaries through a long life : with her powers of application, usefully directed, she might have edified and instructed posterity.

**ANT. VIII.**—*Histoire de l'Égypte sous le Gouvernement de Mohammed-Aly, ou Récit des Evénemens Politiques et Militaires qui eut lieu depuis le Départ des Français jusqu'en 1823. Par M. Felix Mengin, ouvrage enrichi de Notes, par MM. Langles et Jomard, et précédé d'une Introduction Historique, par M. Agoub. 2 Tom. Paris. 1823.*

**O**F the real history of Egypt, until ages after it had become a comparatively civilized nation, there are no authentic particulars. The earliest notices of this extraordinary country are contained in the Bible : we there read of the riches and power of its Pharaohs, at a time anterior to authentic history. Herodotus, who visited Egypt about 400 years before Christ, could not ascertain with precision even the most important events in its history. Vague tradition was the only source whence he could draw information, and even this was wretchedly imperfect : the most memorable events were either wholly forgotten, or enormously distorted : even the names of the builders of those stupendous and eternal monuments the pyramids, were not recorded with any certainty ; nor was the manner of their erection, nor the use for which they were intended, certainly known.

From the time of Herodotus downwards, Egypt was repeatedly conquered, and governed by foreign powers, until it fell under the dominion of the Mohammedans ; and from that time, until very lately, was of but little importance among nations. It however retained so many splendid monuments, and excited so many historical recollections, that a more intimate knowledge of its people, its history, and its antiquities, was at all times desired. Notwithstanding the difficulty of travelling in Africa, and the impediments thrown in the way of those who attempted to explore the country, a number of Europeans visited it from time to time, and published such accounts as their limited means of observation, and opportunities of acquiring information enabled them to compile.

The invasion of the French under Buonaparte in 1798, opened a new era, and made us acquainted with a number of highly interesting particulars. It also led to changes of great importance in the government of the country, and to the very extraordinary and unlooked-for advances in commerce and manufactures which have taken place under the government of Mohammed-Ali.

When the French invaded Egypt, it was in the hands of the Mamelukes, who acknowledged a real, but, in fact, paid only a nominal obedience to the Porte. The government under them



was tyrannical and oppressive, without a chance of any change for the better while it remained in their hands; and thus it would probably have continued to this day, had not their power been reduced by the French invasion and its consequences.

According to M. Mengin, the invasion under Buonaparte was the happiest circumstance that could have befallen the miserable people of that country.\* He tells us, that the English government were forced, by the battle of Marengo, to concentrate their troops in Europe, and were not in a condition to undertake any thing against the French army, which struck terror into the East; that the battle of Heliopolis decided the fate of Egypt, placing the dominion of the country in the hands of the French, and leaving them nothing to fear from either foreign or domestic enemies; that Mourad Bey was put in possession of Upper Egypt, by a treaty which he concluded with his friend Kleber; that confidence was restored to the people; that their condition was daily improving; that they devoted themselves to the cultivation of the soil, the produce of which was now secured to them, and could no longer be seized or destroyed by the roving Bedouin Arabs; that the French soldiers, who had fought with equal constancy and courage in the midst of unusual privations and sufferings, peaceably enjoyed repose under a paternal government, which provided for all their wants. Guided by philanthropy, general Kleber had no wish but for the improvement of the country, and the happiness of the people: to these he wholly devoted himself, and the country was advancing with extraordinary rapidity, when a fanatical assassin cut short the days of that immortal hero.

This admirable state of things, and all the fine prospects of the French, were put an end to by the conduct of general Menou, who succeeded Kleber. He was a man of weak judgment, who, in attempting to rectify one abuse, introduced a multitude of others. He disgusted the natives by innovations on their customs; he disgusted the French officers, produced a schism in the army, and in this manner lost Egypt to France. According to M. Mengin, Egypt was not only in the most flourishing state under Kleber's administration, but such was the power he possessed, and such the want of power, or of inclination to make use of it, on the part of England and Turkey, that neither they, nor the natives, were likely even to cause him any annoyance, and, but for the bad conduct of his successor, Egypt would have remained a province of France. It so happens, however, that not one word of this is true, as we shall presently show.

M. Mengin's book has been carefully got up, and will, no doubt, from the manner in which the subject is handled, produce the effect intended by its publication: it flatters the vanity of his countrymen, and is one, among many other circumstances, calculated to inspire them with a belief that Egypt is not even yet totally lost to France. A body of *savans* have been employed to give *éclat* to the work. MM. Langles and Jomard have enriched it with copious notes, as has also M. Edward Gauttier, on the subject of Mussulman legislation. It is likewise accompanied with designs from the pencil of M. Dutertne, one of the principal artists of the Egyptian commission, and with plans drawn by M. Pascal Coote, architect to the present viceroy. A history of the Wahabis, and a statistical account of the country of Nedjid, were furnished by the grandson of the celebrated Eilu-abdul Wahab, the founder of the Wahabis, who threatened, until their progress was stopped by the arms of Mohammed Ali, to overturn the Ottoman empire. An "Historical Introduction" is prefixed to the work, from the pen of the "celebrated orientalist, M. Agoub," who, with the other *savans* appears to have formed a sort of joint-stock company, under the auspices of the French government, for the production of this work.

The first part of M. Agoub's "Historical Introduction" is much in the style of the "Arabian Nights Entertainments," and although not equally amusing, is as much entitled to credence, as these tales would be were they seriously put forward as portions of rational and authentic history.

M. Agoub, actuated by the same feelings as M. Mengin and his coadjutors, says,

"The Expedition of the French to that country was, undoubtedly, an event which will long be remembered, and which might have regenerated Egypt. That country would have been, at this day, a province of France, had it not been for the sudden departure of Buonaparte, the assassination of Kleber, and the incapacity of Menou, to which the failure of the enterprise may be attributed, rather than to the combined efforts of England and the Porte." We shall see presently that there is as little of truth in the causes asserted by M. Agoub, to have prevented Egypt from remaining in the possession of the French, as in those assigned by M. Mengin. Since, however, fortune would have it, that Egypt should not become a province of France, M. Agoub is, for the present, contented with that magnificent work, the "Description de l'Egypt," which, at any rate, belongs to the French, and cannot be taken from

them either by the English or the Turks. "But," says M. Agoub, "if policy beheld her hopes annihilated, the arts, at least, preserved their trophies: they had already collected the various elements which were to form that magnificent work, the *Description of Egypt*, the sole and immortal conquest which remained to France of that glorious expedition."

Neither M. Mengin nor any one of the *savans* employed in getting up his book has even alluded to the battle of the Nile and the destruction of the French fleet under admiral Brueys: while the causes they have assigned for the evacuation of Egypt by the French are neither the true ones, nor are they sufficient of themselves to account for the defeats and subsequent capitulations of the French armies. The plain and simple cause which decided the fate of the French in Egypt was this, the English were masters of the sea. Cut off from all chance of receiving reinforcements to any considerable amount, and surrounded by native enemies, the situation of the French was necessarily one of great discomfort and peril; their number was continually diminishing, and could not be recruited. Under these circumstances it was no disgrace to brave men to acknowledge that success was impossible; and it would have been but bare justice in M. Mengin and his coadjutors, to their countrymen, had they admitted the impossibility, and pointed out its causes.

No man better understood the situation of the French in Egypt than Buonaparte. He was convinced before he left that country that it could not possibly be retained; and he accordingly made overtures to the grand vizier for its evacuation, in which he declared that "France never entertained an idea of taking it out of the hands of the sublime Porte." In the instructions he left with general Kleber on his departure for France, he says, "If this year, in spite of all our precautions, the pestilence should rage in Egypt, and destroy more than fifteen hundred soldiers, I think you ought not to run the chance of the next campaign, and you are authorised to conclude peace with the Ottoman Porte, though the evacuation of Egypt should be the principal condition."

It is quite clear that although other pressing circumstances called for the presence of Buonaparte in France, his conviction of the impossibility of retaining Egypt was at least one of the principal reasons which induced him to quit that country. It was not, therefore, his leaving Egypt which prevented it becoming a province of France, but, on the contrary, a thorough conviction of the impossibility of its becoming a



province of France was the motive which determined him to quit it. It may here be observed, that at this time no armament had been fitted out in England, and that it was not until more than a year afterwards that the expedition under general Abercrombie left our shores.

Buonaparte quitted Egypt on the 23rd of August, 1799, when the command devolved on general Kleber, who appears to have conducted himself with prudence and circumspection. That Egypt, however, was not in the state described in the work of M. Mengin, shall be shown by Kleber's own confession. On the 4th of September following, that is, immediately after Buonaparte's departure, he made overtures for a negotiation with the grand vizier, in which he repeated the false assertions which Buonaparte had made, "that the French government never had the least idea of taking Egypt from the grand signior." The negotiation which followed led to the treaty of El Arisch, by which the French agreed to evacuate Egypt, on condition of being conveyed to France within three months. The treaty was signed on the 24th of January, 1800. To this treaty, sir Sidney Smith, as the English plenipotentiary, formally acceded, as did also the Russian minister, who was resident in the camp of the grand vizier. Unfortunately, the British government refused to ratify the treaty; which would have rendered the expedition under general Abercrombie unnecessary, saved an immense number of lives, and prevented the waste of a great amount of treasure. It is plain, however, from these circumstances, that it was not the assassination of Kleber which prevented Egypt from remaining a province of France.

Kleber, in justification of his conduct, transmitted a copy of the convention and a statement of his situation to the French Directory. In this despatch he informs them of the preparations making by the Turks for the recovery of Egypt, and the assistance they derived from the active exertions of sir Sydney Smith, as well as from the conduct of Mourad Bey, who, notwithstanding he was constantly pursued and as constantly defeated, allured the Arabs to his cause, continued to keep troops together, and to give unceasing annoyance. He added, that the French troops at El Arisch had pusillanimously surrendered to the army of the grand vizier, and declared, that from that moment it was necessary to lay aside all motives of personal vanity, and not to expose the lives of the Frenchmen intrusted to his care to the terrible consequences which further delay would render inevitable. Forty-five thousand

men were before El Arisch ; other troops were at Jaffa, and in the neighbourhood of Rumli. Active foraging parties supplied the grand vizier's camp with provisions ; all the tribes of Arabs were emulous of assisting his army ; they had furnished it with more than fifteen thousand camels. The vizier had fifty well-appointed pieces of cannon ; all his forces were commanded by European officers, and the arrival of eight thousand Russians to his assistance was every moment expected. Such is the substance of the account given by general Kleber of the state of the country, and the situation of the French army, at the time M. Mengin has seized upon to describe the inhabitants as enjoying perfect repose, the French as in perfect security, and the whole country rapidly advancing to civilization under the philanthropic and paternal government of Kleber.

That Kleber was an able man, and that he did all he could for the advancement of the country and the comfort of the army he commanded, is no greater praise than is due to his memory ; but his situation, on taking the command of the army, was by no means an enviable one, and it was not at all improved by the refusal of the British government to permit the convention of El Arisch to be carried into effect. So far indeed was Kleber from being placed in the circumstances mentioned by M. Mengin, that, after the rupture of the convention of El Arisch, his soldiers were discontented, the generals were divided, and the whole army was in great perplexity, whilst a longing desire to return to France was generally prevalent. Instead of possessing all the power ascribed to him by M. Mengin, Kleber could not even prevent the vizier from marching upon Cairo ; and so far were the inhabitants of the villages from being comfortable, secure, and contented, that on Kleber marching from Cairo to meet the vizier, a sort of general rising took place. The insurgent beys took possession of the suburbs, and were joined by from eight thousand to ten thousand inhabitants of the villages. That quarter of the city in which the French resided was next seized upon, and a general pillage and indiscriminate massacre, without regard to age or sex, ensued. This was followed by a general insurrection, which it required three weeks to subdue, and which was marked by occurrences of the most horrible kind : Barlac was burnt, and portions of Cairo were laid in ruins.

Kleber did his utmost to make the most of the adverse circumstances in which he was placed, and, had he lived, would, in all probability, have re-concluded the convention of El Arisch, the English admiral having received new orders, in which he was directed to permit the departure of the French

troops to Europe. This was, however, prevented by the assassination of Kleber on the 14th of June. During the few months which intervened between the refusal to execute the convention of El Arisch, and the death of Kleber, he was incessantly occupied in military operations and arrangements; his situation, as well as that of the army and of the people was, in short, precisely the reverse of the account given by M. Mengin.

Kleber was succeeded by Menou, who seems to have supposed it still possible to retain possession of Egypt. Menou has been justly blamed for his injudicious conduct as commander of the French forces, but it is absurd to impute to that conduct the loss of Egypt. Menou's incapacity may have caused the destruction of more lives, the waste of more property, and the misery of a larger number of persons, but it was not in his power to have kept possession of Egypt for any considerable period longer than he did, much less to have secured its possession as a province of France.

The falsehood and disingenuousness of M. Mengin and the compilers of his book, do not, however, end here. It answers their purpose to attribute the loss of Egypt to any but the true causes, and they hesitate not to assert whatever seems calculated to promote this object. M. Mengin, in a note to page 9, is made to say, "I have been assured by persons worthy of credit that general Hutchinson, in the house of the Austrian consul at Cairo, whilst criticising the plans of general Menou, declared, that if he was in the place of Buonaparte he would have him shot, as he was the sole cause of the loss of Egypt."

The convention of El Arisch was signed on the 24th of January, 1800, and it was not till the 8th of March, 1801, that general Abercrombie's army landed at Aboukir, and took a position on the sands. On the 21st, the battle of Alexandria was fought, which decided the fate of Egypt. General Abercrombie having lost his life in this battle, the command devolved upon general Hutchinson, whose promptitude and ability soon afterwards induced the French to agree to evacuate the country, on terms very similar to those of the convention of El Arisch.

General Hutchinson, after various successes, took up a position before Cairo, in which was a considerable portion of the French army, under general Belliard, who, on the 27th of June, prudently capitulated. Menou, who commanded at Alexandria, was, however, displeased with the conduct of Belliard, and did not himself accede to the treaty, until he had sustained a siege, which M. Mengin says, was "long and sanguinary and lasted six months." But this, like his other assertions, is wholly



inaccurate. The operations of the besieging army did not commence until the 17th of August, when the first parallel was begun, and the place surrendered on the 2nd of September. It will thus be seen, that the conquest of Egypt was effected within six months from the day the English army landed on the coast.

M. Mengin, in accounting for the surrender of general Belliard at Cairo, with his usual accuracy and adherence to truth in whatever concerns the English, says, that an army of six thousand men disembarked at Cosseir, under general Baird, to take part in the operations against the French; and he so relates the circumstance, as to make it appear that the landing of the troops from India was a principal inducement with general Belliard to capitulate. But the truth is, that Belliard had surrendered before the arrival of general Baird at Cosseir. The expected arrival of the Indian army, no doubt, had some effect in determining him to this resolution, but as that army had not arrived when he signed the capitulation, its arrival could not have been the cause of his surrender.

The politics of St. James's and of Constantinople, respecting the future government of Egypt, were not in accordance. The beys had rendered particular services to our troops in Egypt, and had obtained the countenance and support of our ministers. They had been led, or at least permitted, to expect that the government of Egypt would again fall into their hands; and this was probably the expectation of our own government. The sultan had, however, determined to establish the usual mode of provincial administration by pachas. The grand vizier had held out unequivocal promises to the beys, that their authority should be restored on the expulsion of the French, and soon after the surrender of Alexandria seven of those Mameluke chiefs were decoyed on board some vessels, under pretence of holding a conference with the capitan-pacha for the purpose of making arrangements for their restoration to power. The capitan-pacha had received secret orders from the sultan to seize the beys, and send them to Constantinople. The seven beys finding themselves betrayed, attempted to resist, when four of them were killed, and the remaining three wounded.

At the time when this transaction took place, the British general was attempting to mediate between the parties, with both of whom we were in alliance; and as no justification could be found for the perfidious conduct of the capitan-pacha, any more than for his utter disregard of all the rules of civilized nations towards the British general, and the army under his command, the interference of that commander became necessary. It would, no doubt, have been carried to a much greater extent

had it not been prevented by the urgent claims of the French government for the fulfilment of the treaty of Amiens, by which we were bound to evacuate the country.\*

This massacre of the beys in Lower Egypt, and the imprisonment of others in both Lower and Upper Egypt, by command of the capitan-pacha showed plainly enough what would be the result when the English forces had left the country. All that general Hutchinson could do previous to the army quitting the country was, to demand the release of the beys, and this his inflexibility and perseverance effected. In obtaining their release and withdrawing the army, good faith was kept with all parties.

The British forces being withdrawn, the field of contention was left open, and an intestine and bloody war broke out between the Turks and Mamelukes, in which the latter, notwithstanding the inferiority of their number, gained considerable advantages.

M. Mengin was, for some time, agent for the French government at Cairo; an appointment which we believe he owed to the good offices of M. Chateaubriand, to whom he has dedicated his book. He lost that situation on M. Chateaubriand's removal from office. He, however, continued to reside at Cairo; and as Mohammed-Ali cannot be ignorant of what is said of him by M. Mengin, a bias in his favour, and in favour of those interests to which he is, or appears to be, attached, may reasonably be expected to be found in the work before us.

The first volume is principally occupied with details of the

\* The observations on this event, in a note by M. Jomard, will give a tolerably correct idea of the manner in which he has illustrated the work of M. Mengin.

*'Massacre of the Beys.'*

'This first destruction of the Mamelukes has been related and judged of in Europe in various ways; it is almost certain that the capitan-pacha was obliged to obey the express orders of the divan. During the war with the French, he had shown that his character was neither ferocious nor perfidious to that degree; added to which, the atrocity of the measure was rendered still more odious by the previous promise which he made to the beys, that he would not demand the assistance of the British commander-in-chief: this last circumstance, as well as the march of general Hutchinson, proves most forcibly that the English were strangers to that horrible catastrophe.'

When M. Jomard thinks proper to state, that the English do not appear to have connived at the treachery of the capitan-pacha, and the murder of the Mamelukes, as if a doubt could be fairly entertained on the subject, even had our interests been opposed to, instead of being, as they were, in favour of the Mamelukes, his insinuation is the more gratuitous, if indeed this be not too mild a term to apply to M. Jomard.

proceedings, and in particular, of the contentions of the various chiefs, both Turks and Mamelukes, which followed the evacuation of Egypt by the British forces in the month of March, 1803. M. Mengin, from his situation at Cairo, had many opportunities of observing passing events, and of judging of the merits and pretensions of the leading men of all parties ; his account is both curious and entertaining. He has an evident leaning to the side of the Turks. He has, it is true, related several occurrences, in which Mohammed-Ali does not appear in a very respectable light ; but inasmuch as many of these tend to show his cunning, and his success on all occasions, they may be intended to be understood, and probably will be understood, by Mohammed-Ali, as proofs of his wisdom. There are, however, passages, in which the conduct of Mohammed is treated very freely. So far as we can judge from what has been said by others, as well as from what we have collected from a pretty extensive correspondence with some Englishmen in Egypt, we are led to conclude that M. Mengin's narrative of events is tolerably correct.

At the time when the English evacuated Egypt, Mohammed-Ali held the rank of bin-baschi, or colonel, and had the command of three hundred Albanians. He was soon afterwards promoted to a higher rank ; but we are not informed whether or not this honour was conferred upon him in contemplation of the massacre which, at a subsequent period, he so basely and so effectually perpetrated.

M. Mengin has repeatedly introduced his hero, in his account of the proceedings which took place in Egypt from the time when the English forces were withdrawn, to the month of March, 1804, when Mohammed, by his courage and address, expelled the beys and Mamelukes from Cairo. He then observes, "It will not be uninteresting to take a passing view of the events which conducted him to that country." And as Mohammed-Ali continues to act so conspicuous a part in Egypt, Greece, Nubia, and Arabia, and occupies no small portion of the attention of Europe at this moment, M. Mengin's account of his early life and adventures cannot fail to be acceptable to our readers.

‘ Mohammed-Ali was born at Cavale, in Romelia, the year of the Hegira 1182, A. D. 1769. His father, Ibrahim Aga, was chief of the guard placed to insure the security of the roads : his son, during his early years, was brought up in the house of the tchorbagi, governor of Cavale. It is said, that whilst his mother was "enceinte" with him, she had a dream of which she procured an explanation from the soothsayers, who assured her that the infant would one day arrive at the height of power, honours, and wealth. This prediction, which struck her imagination,



she confided to her son whilst still very young. From that moment Mohammed felt within himself a secret impulse which called him to the command of others; full of ardour, and gifted with uncommon sagacity, he sought opportunities of distinguishing himself. On one occasion, the inhabitants of a village of the district of Cavale having refused to pay the tribute imposed on them, the tchorbagi was at a loss what measures he should take to force them. Mohammed-Ali offered his services, and assured him that he would punish the rebels: his master admiring his courage, placed a few armed men at his disposal, and gave him the power to act as he should think proper. Mohammed having arrived at the village with his troop entered the mosque, and whilst he was at prayers, sent for four of the principal inhabitants, under the pretence of important business; these, without suspecting any artifice, came to the mosque to confer with the person who had sent for them; Mohammed-Ali seized them, put them in irons, and conducted them to Cavale, in spite of the clamours and pursuit of the inhabitants, whom he restrained by threats that he would put his prisoners to death. The tchorbagi, pleased with the success of this enterprise, which procured him the amount of the impost, conferred on him the rank of boulouk-bachig; he also permitted him to marry one of his relations, a widow, by whom Mohammed had three sons, Ibrahim, Jousoun, and Ismaïl.

‘There was at this time at Cavale, a Mr. Lion, a merchant of Marseilles, who had shewn a great affection for Mohammed-Ali from his infancy; he felt for him the sentiments of a father, and loaded him with benefits.\*

‘These actions gave Mohammed-Ali a favourable idea of the character of the French, which he has always spoken highly of in the transactions which he has since had with them.

‘Mohammed-Ali commenced a trade in tobacco, one of the most lucrative productions of Romelia, and it was, no doubt, from this circumstance that he acquired those ideas of commerce which he has ever since entertained. But this occupation did not prevent his engaging in military enterprises whenever he was required.

‘The Porte, at this period, commenced the war with the French in Egypt. The capitan-pacha was waiting in the bay of Marmora for troops to be embarked on board his fleet. The district of Cavale was required to furnish its number. The tchorbagi hastening to put in execution the orders he had received, sent 300 men armed and equipped under the command of his son, Ali-Agha, of whom Mohammed-Ali was the mentor; but the young man, disgusted with the stormy voyage, and the privations they had to suffer amidst the sands of the peninsula of Aboukir, quitted the army, and returned to his father, leaving the command of his troops to Mohammed-Ali, who took the title of Bin-baschi.

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\* Mohammed Ali Pacha, in 1820, having heard that Mr. Lion was returning to France, wrote to him to come to Egypt. This gentleman was preparing to go and see his former friend, when he died on the day on which he had designed to embark. The prince caused the sum of 10,000 francs to be sent to his sister, in testimony of his regret.

‘ After the first advantages gained by the English at Aboukir, and at César, the army of the capitan-pacha prepared to act on the offensive; it began its march, and had an engagement before Rahmânyeh with a body of troops under the command of general Lagrange.

‘ Mohammed-Ali lost many of his troops; but he was, notwithstanding, noticed by the capitan-pacha, who made choice of him for the attack of the fort. Towards day-break, he placed himself under cover of the entrenchments, and, not hearing any noise, he attempted to enter. The French had evacuated it.

‘ Whilst he thus acquired the notice of the grand admiral, he also contrived to obtain a patron at court, Hassan-Agha, one of the officers of that prince, who was afterwards aga of the Janissaries at Cairo, and who favoured the interests of Mohammed-Ali. By his interference, the admiral recommended him to Mohammed-Pacha Kousrouf, under whose orders he was to serve. After the massacre of the beys at Aboukir, he was nominated Saré-chesmé. His master having one day received a present of four horses, gave him one, in testimony of the kindness he entertained for him.

‘ On the opening of the campaign, Mohammed-Pacha Kousrouf gave him the command of a division of the army which was to co-operate with that under the command of Youssef-Bey his Kâija, in the war with the Mamelukes. Youssef-Bey was defeated: he attributed his defeat to Mohammed-Ali, whom he accused of not having given him the assistance he required. His accusation prevailed with the pacha, who formed the intention of destroying the accused, or at least obliging him to quit Egypt.

‘ Mohammed-Ali demanded the pay of his troops and himself: the governor sent at night to find him, and to communicate his orders: Mohammed-Ali replied, that he would present himself by day, accompanied by his soldiers. They wished to get rid of him, but hesitated on the means of taking him; his correspondence with Taher-Pacha and the Albanians was known, and Mohammed-Pacha was informed of it; but he was neither very bold nor very active; and, as we have seen, the governor was astonished at the action which he meditated.’—Vol. i. p. 95, *et seq.*

We shall not follow our author in his account of the pitiful intrigues, the marches, skirmishes, and ill-fought battles which followed, and which he relates in a desultory manner, with singular minuteness, and with a degree of sameness which makes this portion of his book insufferably tedious. His accounts of the conduct and proceedings of the adverse parties are not calculated to give a favourable impression either of the bravery or good conduct of any of the chiefs who are alternately brought forward.

Mohammed-Ali took advantage of the mutual misunderstandings of all parties, and, supported by his Albanians, became, as it best suited him, either friend or foe, ally or enemy of Turks or Mamelukes. From the dexterity with which he managed these

matters, he was always successful, constantly taking advantage of the errors and crimes of others to gain an accession of strength, and an increase of influence. At length he procured from the Porte the rank of pacha. To this he soon added that of governor of Egypt, which he obtained by artfully promoting an insurrection both of the troops and of the people, whom he incited to call upon him to assume the government of the country, as being the only person capable of establishing order. He acceded to their wishes, assumed the government of Cairo, and immediately laid siege to the citadel in which the governor Thouschid-Pacha was shut up : here he remained until the arrival of the capitan-pacha, who brought with him two orders from the Porte, one for the return of Thouschid-Pacha to Constantinople, the other to invest Mohammed-Ali with the government of Egypt. This took place in June, 1805.

Previous to Mohammed-Ali's attaining the office of governor of Egypt, Elfy-Bey, who had accompanied lord Hutchinson to England in 1803, returned to his country. Elfy had taken a prominent part in favour of the English, and it was generally reported that he had brought back a promise of support from the British government, in any attempt he might make to raise himself to the chief rank among the Mamelukes, and to possess himself of the government of the country. Bardiny-Bey, jealous of his supposed designs, and cajoled by Mohammed-Ali, joined him against Elfy. It was by thus fomenting divisions among the Mamelukes, that Mohammed-Ali ultimately succeeded in ruining them : for as soldiers, they were superior both in bravery and in resources to either the Turks or the Albanians.

Elfy, being reduced to the necessity of defending himself, maintained his troops by levying contributions on the country. After a time, he ventured to act on the offensive, and laid siege to Damanhar, a place of some importance in the event of succours arriving from England. The undertaking was, however, beyond his means, and after a four months' siege, or rather blockade, he was obliged to abandon it and retire to Upper Egypt, where he died of chagrin. Within a few weeks of his death, the British forces arrived at Alexandria, of which place they took possession.

In consequence of the rupture between the British government and the Porte, an expedition was sent to Egypt, under the command of general Fraser. The expedition arrived off the coast of Egypt on the 17th March, 1807, and immediately demanded the surrender of Alexandria. A short time was spent in negotiation, and on the 21st the place surrendered. A correspondence was immediately opened with the beys, who were



expected to join the invaders ; and active operations were commenced. A detachment under general Wauchope was sent to take possession of Rosetta, which it entered without any show of opposition. The people remained in perfect tranquillity, which nothing appeared likely to disturb. Lulled by this inactivity, the English took no precautions against surprise, and no notice was taken of the Turkish and Albanian troops then at Rosetta, notwithstanding their number amounted to five hundred. Fatigued with their march over barren sands, and the heat of the sun, the soldiers were permitted to disperse about the town, and numbers laid themselves down to sleep. In this condition they were attacked by the Turks and Albanians : ninety were killed, and their heads stuck upon two rows of pikes in the public market-place. Among the slain was general Wauchope ; one hundred and twenty were made prisoners, and the remainder made good their retreat to Alexandria.

A considerable portion of the army under the command of general Stewart was immediately sent to retrieve the disaster, and vindicate the honour of the British troops ; but this expedition was equally disastrous with the former. The Turks had gained confidence as well as received reinforcements, and were now strong in cavalry, of which the British, trusting probably to the Mamelukes who were to have joined them, had none. Rosetta was bombarded, but with little effect. In the mean time the Turks attacked part of our forces stationed at the village of Hemad, under the command of colonel M'Leod, who, finding himself unable to maintain his position, commenced a retreat on the main body, to reach which he had to cross a plain covered with Turkish cavalry. By these he was instantly assailed, defeated, and himself, with the greater part of the troops, put to the sword ; numbers were wounded, and the survivors were made prisoners.

General Stewart now found it necessary to retreat with nearly the whole of the British troops, which, before this period, had been brought up to Rosetta. On his march, he was constantly harassed by the Turks, but he reached Aboukir without much loss, and embarked for Alexandria.

The wounded and other prisoners were thrust on board boats and conveyed to Cairo ; among them were majors Moore and Vogelsang. The treatment of the prisoners, as described by M. Mengin, was truly horrible : the wounded had no surgical assistance until they arrived at Cairo, nine days after ; when Mohammed-Ali permitted the French surgeons to attend the men, and showed much attention to the officers ; his conduct is described by Mengin as remarkably hospitable.

These disasters were highly favourable to the views of Mohammed-Ali, who did not fail to profit by them. He managed the Mamelukes with great dexterity; he took advantage of the state of suspense in which the misfortunes of his enemies and his own conduct had placed them, and thus prevented Ibrahim-Bey, who had succeeded Elfy, from joining the English with his Mamelukes, as he had projected.

General Fraser now limited his operations to maintaining himself in Alexandria, whence he wrote home for reinforcements. He still entertained, not unreasonably, hopes, founded on the distracted state of Egypt, of being able to establish his own party in power. The force sent to Egypt was evidently too small of itself to reduce that country; but if, as was expected, it had been promptly aided by the Mamelukes, it would, no doubt, have been sufficient to have effected its purpose, and wrested the power from the hands of the Turks.

The British government, finding that general Fraser had not been joined by the Mamelukes, and anxious for the restoration of the prisoners in the power of Mohammed-Ali, instead of sending reinforcements to general Fraser, sent positive orders for the evacuation of the country. On receipt of these orders, the general lost no time in treating with Mohammed-Ali, who at once acceded to his request, and set the prisoners at liberty. The British troops soon afterwards evacuated Alexandria, and sailed for Sicily.

M. Mengin remarks, on the subject of this expedition, that the British were not well informed of the state of the country, and did not on landing pursue the most adviseable course. He makes it appear pretty clearly, that had they taken up a position at Damarshour, and induced the Arab tribes to join them (which they might easily have done), they would have improved the terror which the first news of their landing had inspired, have disconcerted the plans of Mohammed-Ali, and obtained the decided co-operation of the Mamelukes, the consequence of which would have been, the loss of Egypt to the Turks.

The power of the beys and Mamelukes having been greatly abridged, and their numbers considerably reduced, they, at length, before the departure of the English, listened to the fair promises which were made to them by the capitan-pacha and grand vizier, and solemnly confirmed by their oaths, on the Koran, of protection, favour, and preferment, if they would submit themselves to the sultan. They consented to relinquish their pretensions to authority in Egypt, and signified this con-

sent in writing to the grand signior, and also to general Hutchinson. The pledge of protection so solemnly given was never intended to be fulfilled, the sultan having already resolved on their destruction, and transmitted secret orders to Mohammed-Ali to carry that resolution into effect.

On the departure of the English, the Porte repeated its commands to Mohammed-Ali to send an expedition against the Wahabees; but he did not as yet feel himself sufficiently established to risk the consequences of sending his forces to Arabia, and to levy the imposts necessary for the maintenance of the war. The destruction of the Mamelukes, who were sure to become discontented on finding that the treaty with them was not kept, determined Mohammed to take the most effectual means for his own safety, and this was no less than their extermination. To accomplish this, was an exceedingly difficult task. Some he seduced by presents and preferments, others by promises; but several, suspecting him of treachery, retreated to Upper Egypt, whither he pursued them. On his return to Cairo, he offered terms of peace to those who chose to come into his measures, and by this, and various other means, he induced a considerable number of beys and Mamelukes to come to Cairo. In the mean time preparations were making for the invasion of Arabia. Previously to the departure of his son Toussoun-Pacha to command the army, he proposed a day of ceremony, under the auspices of the astrologers, who pointed it out as the day of happy presage. The ceremony was to be very magnificent; the principal part, the investiture of the Helesse, was to take place in the palace within the citadel. All the troops in Cairo were to assist in the exhibition, and, by the place he assigned to the Mamelukes in the procession, he was enabled, when they were in a narrow road leading up to the citadel, between two high walls, at each end of which were barrier-gates, to close the gates, shut them up in the narrow defile, and fire upon them through loop-holes in the walls above.

‘ On the morning of the 1st of March 1811, they all ascended to the citadel; Chahÿn-Bey appeared at the head of his family; he came with the other beys to tender his duty to the viceroy, who awaited them in the grand hall of introduction. He caused them to be served with coffee, and conversed with them. When all the *cortège* was assembled, the signal for departure was given; each took the rank which had been assigned him by the master of the ceremonies: a body of *dehlys* commanded by Ouzoun-Ali commenced the march: then followed the aga of the Janissaries and of the supplies, the *odjaglys*, the *golalaches*;



Sâleh-Kock with the Albanians, and then the Mamelukes and Solymân-Bey el-Baouâb. The infantry, the cavalry, and the heads of administration closed the procession. The head of the column had orders to march towards the Gate el Azab, the entrance of the square of Roumeylech; the road which leads to it is cut in the rock; it is narrow and rugged; in some parts the projecting points prevent two horsemen from passing abreast. When the dchlys and the agâs had passed, Saleh-Kock ordered the gate to be shut, and communicated to his troops the orders of the viceroy to exterminate all the Mamelukes. The Albanians instantly returned, and gained the summit of the rocks which command the road, where they were out of the reach of their adversaries and where they could take more deliberate aim, and strike more surely; they then fired upon them.

‘The last of the troops hearing the firing, fired on their part from the top of the walls where they were under cover. The Mamelukes who were arrived at the first gate, wished to take another road to return to the citadel; but from the nature of the position in which they were placed, they could not manage their horses; and seeing that several of their body had fallen, killed or wounded, they dismounted, abandoning their horses, and casting off their upper garments. In this desperate situation they retraced their steps, sword in hand; no one was to be seen; but they were fired upon from the interior of the houses. Châhyn-Bey fell wounded with balls before the door of the palace of Saladin. Solymân-Bey el-Baouâb ran, half-naked and in despair, to implore the protection of the harem\* of the viceroy; it was in vain; he was conducted to the palace, where the prince ordered him to be beheaded; others went to demand protection of Toussoun-Pacha, who took no part in what was passing.

‘The troops had immediate orders to arrest all the Mamelukes; those who were taken were instantly conducted before the Riêuja-bey, and beheaded. The body of Châhyn-bey was dragged about with a rope round his neck; the citadel resembled an arena of blood; mutilated bodies encumbered the passage, horses richly caparisoned were seen lying beside their masters, sâys,† pierced with balls, their arms broken and their dresses covered with blood; all the spoils became the prey of the troops. In the morning 470 Mamelukes had joined the procession; not one of them escaped the general massacre.’—Vol. i. p. 360, *et seq.*

The massacre extended to the city: no sooner was it known that the beys were attacked, than “*toutes les boutiques furent fermées, et chacun s’empressa de rentrer promptement chez soi. Bientôt les rues furent désertées. On ne vit plus que des bandes*

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\* Amongst the Mamelukes, when a man who is pursued can attain the gate which conducts to the apartments of the women, and cries “*Fyard le Harym*” (“under the protection of the women”), they grant him his life.

† Grooms; these servants run before their masters, carrying a long staff in their hands, and attend to all the movements of the rider, whom they never quit, even in danger.

de soldats se jeter pêle-mêle dans les maisons des proscrits, et s'en partager les dépouilles. Ces furieux commirent des horreurs : ils violaient les femmes, arrachaient même les vêtements qu'elles portaient sur elles : un soldat, pressé de saisir des bracelets qu'une femme avait au bras, lui coupa le poignet."

These outrages continued several days, during which Mohammed-Ali shut himself up in the citadel.

Orders had been given for a similar massacre in all the provinces ; the consequence of which was, that not only the Mamelukes were put to death, but all who had in any way incurred the displeasure of the Kiachefs throughout Egypt. The orders of Mohammed furnished an opportunity to those in power to gratify their antipathies, and satiate their vengeance on all whom they either feared or hated.

Many Mamelukes remained in Upper Egypt ; of these, sixty-four were seized, and put to death by torch-light. The heads of the principal beys were sent to Constantinople. M. Mengin appears to have related the circumstances connected with the massacre of the beys without much disguise, and to have drawn a tolerably correct picture of the horrors with which it was attended. He has, however, made some observations intended to defend or palliate the conduct of Mohammed-Ali : and M. Jomard, in a long note, has done the same : however much these attempts may tend to gratify Mohammed, and reconcile him to the account of the massacre, they leave it as they found it, open to the execration of mankind.

‘ On some grounds, the destruction of the Mamelukes, which however I am far from justifying, was beneficial to Egypt, where their presence was the cause of a struggle so detrimental to the country, and which it was the well-known design of the Divan to have continually prolonged. The bold stroke which Mohammed-Ali had dared to make in order to execute the secret orders of the Porte, suddenly destroyed a power which it had partially weakened, and on these grounds the conduct of the pacha may be excused : on the other hand, his own safety required that he should have recourse to vigorous measures. Surrounded by undisciplined troops, obliged to remove a portion of his army which it was necessary to send into Arabia, he was forced to think of some means of enfeebling his enemies, whose influence was about to be increased. It is said that he knew of their project of destroying him on his return from Suez. Some of them did not even attempt to conceal the hatred which they bore him, and of the relation which he held with foreign powers.\* A situation so critical, and appearances so hostile,

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\* Lord North, with several Englishmen in his suite, was then at Cairo ; he frequently saw the Beys, and particularly those of the house of Elfy. He one day made a visit of ceremony to Chahyn-Bey on which he made him presents.

would not allow the pacha to deliberate ; the death of the Mamelukes was decided.\*

‘ After Mohammed-Ali had ordered the death of Kousrouf, the destruction of the Mamelukes was the end to which all his efforts were directed, and he proceeded with a prudence, fortitude, and address, which insured his success : having the skill to take advantage of every circumstance which chance might throw in his way, he knew how to make the most of their results, by the profound calculations of his genius. Calm, prudent, and active, it was not until after he had considered all the consequences of an action that he permitted it, taking care to point out to his friends the rocks which he should avoid. He was particularly attached to the Albanians, as he knew the Turks too well to place any confidence in men of so changeable a character. He sought to gain the support of Aboyn and Hassan-Pacha, and it is for the most part to the assistance of these two chiefs that he is indebted for supreme power, which no one will think of disputing with him.—Vol. i. p. 370.

Having destroyed the principal beys and Mamelukes, Mohammed-Ali found himself, says M. Mengin, absolute and peaceable master of Egypt. From this we might suppose that he governed in peace, and had no enemy who dared to disturb his repose. M. Mengin shows, on the contrary, that this was by no means his situation. Relieved, however, from the fears which the Mamelukes had never ceased to inspire ; he found himself in a condition to comply with the commands of the Porte, by organizing a considerable expedition against the Wahabees. He went himself to Suez, examined the place, and, after storing up information respecting the advantages and disadvantages of marching troops by this route, he took his measures accordingly.

‘ Although, says M. Mengin, he had not the resources which are required for such an undertaking, Mohammed-Ali conceived the project of forming a marine on the Arabian gulph. From the ports of Turkey he caused wood for ship-building, anchors, and cordage to be transported to Boulay ; where he assembled workmen. When the materials were prepared, he caused them to be carried on the backs of camels to the shores of Suez : the undertaking was long and difficult ; it was necessary to place the articles of the greatest weight on the backs of two or four camels, which the conductors made to walk abreast : these animals were frequently overpowered with the burthen ; the road was covered with their dead bodies ; but the vacancies were immediately filled by others furnished by the Arabs : there were nearly ten thousand camels employed in this undertaking. Eighteen ships were constructed and launched in the space of ten months, and so disposed as to convey troops, and to receive provisions and warlike stores.’—Vol. i. p. 343.

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\* Mahommed-Ali Pacha having heard that travellers had reproached him with the massacre of the Mamelukes, as an action contrary to the rights of man, said that he would have a painting made of that massacre, and of the death of the duke D’Enghien, and that posterity should judge between them.



His own troops, indulged, as they had lately been, with the massacre of the Mamelukes, as well as of their personal enemies, and permitted, as they had been, to plunder with little discrimination of persons, might, and probably would have become troublesome to him ; and it was, therefore, the more necessary to find employment for them at a distance. This was effected by sending them to Arabia, against the Wahabees. Besides the employment of his troops, and the probable extinction of many licentious soldiers, who might have caused him uneasiness, and perhaps have assisted his enemies in Egypt, two other objects were to be obtained by this expedition : first, as this was a religious war, he was sure to obtain praise from all good Mussulmans, if not the character of a saint ; and, secondly, the enterprise, when conjoined with the murder of the beys and Mamelukes, would certainly augment his favours at Constantinople, and increase the stability of his power in Egypt.

The sect of Wahabees, the reformers of the Mussulman faith, had existed for more than a century ; they had possessed themselves of a considerable portion of Arabia, and had lately added to their conquests the three cities held most sacred by the Turks and their Mohammedan dependants. Their power was rapidly increasing. Not only were they extending their conquests in Arabia, but they even threatened Egypt. Their success was less owing to their military skill and courage, than to the distracted and enfeebled state of the government of Constantinople.

M. Mengin, after describing the origin and progress of the Wahabees, gives a minute account of Mohammed-Ali's preparations for the invasion of Arabia, and of the operations of the Egyptian army under the command of his son Toussoun-Pacha.

On the commencement of hostilities, the skeriff of Mecca, who had allied himself with the Wahabees, and who still held the posts of Jidda and Yambo, betrayed his allies, and assisted the Egyptians to invade the country. Under various pretences, he sent vessels to Suez, which Toussoun used as transports for his infantry, while his cavalry proceeded by land to Yambo, thence to Medina, and soon afterwards to Mecca. The account of his proceedings was principally collected from the Italian surgeons who accompanied the army. They are interesting, inasmuch as they add something to our knowledge of the manners of the people, and the geography of the country.

The war, as is usual among barbarians, was carried on with more ferocity and cruelty than courage. Ibrahim-Pacha, another son of Mohammed, who took the command of the troops towards the latter part of the war, is well known for the

cruelty of his disposition. M. Mengin gives the following account of the conduct of this ferocious barbarian towards the inhabitants of Doramâ.

‘ On his arrival before Doramâ, Ibrahim encountered resistance. The inhabitants of the town killed many of the Turks in their power, amongst others an agâ, who had put to death two of his servants with the bastinado. But all defence was useless: the governor, Souhoud ebn-Abdallah, was forced to retreat with his men to a large building, in order to secure his property, and obtain a capitulation: surrounded on all sides by Turkish troops, he abandoned the inhabitants to their discretion. The conqueror, irritated by an unexpected resistance, gave orders to his troops to put all to the sword, which was accordingly executed.

‘ After having dispersed some parties of the enemy, the Turks, greedy of plunder, entered the city, and proceeded to put in execution the orders of their chief with more activity than they had shown in the attack; they assaulted the inhabitants sword in hand; the firing was so incessant that in less than two hours the greater part perished in their houses, and there only remained a few hundreds of women and children who had been spared by the pity of the soldiers. These unfortunate victims beheld before them the bodies of their fathers, their brothers, and husbands, scattered here and there in confusion; their last garments were torn off, and nothing was left them but to follow to the tomb the objects of their affections. Blood ran down the streets, which were filled with the dead; it was thus that Ibrahim punished the inhabitants of Doramâ for the resistance they had opposed to him.

‘ The governor, who had retired within his house with some faithful troops, had not yet been attacked; two cannons were mounted in order to make a breach; but Ibrahim, having discovered that this building contained some treasures, arms, and horses of great value, considered that, instead of destroying the last defenders of Doramâ, it would be more profitable to grant them their lives. He consented that the commandant and his men should march out of the city without arms or baggage, and go to Derayeh, on promising for the future not to take part in the war.

‘ Content with having satisfied his vengeance, Ibrahim permitted the women and children to remain amidst the ruins of their town, after having been the victims of the brutality of the soldiers.’—Vol. i. p. 116.

\* As a contrast to the conduct of these barbarians, and to mark the comparative humanity consequent on superior civilization, we here quote, with much satisfaction, a passage from the despatch of major Warren on the surrender to the forces under the command of sir William Grant Kier, of the fort and town of Zyah, one of the strong holds of the pirates in connection with the Wahabees on the Persian gulph.

Being prepared to batter the fort in breach, major Warren says, “ Aware that the females of the enemy were still in the town, and humanity dictating that some effort should be made to save the innocent from the fate of the guilty, an opportunity was given for that purpose, by an offer

The conduct of the Wahabee chief, Abdallah, was alike treacherous to Turks and Arabs. Had he maintained the high character which his father had acquired, the efforts made by Mohammed-Ali would not only have failed in their object, but would probably have terminated in the extension of the dominions of the Wahabees over the Pachalics of Bassora, Syria, and probably Egypt. The treachery and avarice of Abdallah excited general odium, and raised up secret enemies in all parts of Arabia. Mohammed-Ali, who was duly informed of what passed in Arabia, and who understood the art of intrigue quite as well as that of war, took the necessary means to detach as many as possible of the Arab chiefs and their followers from the Wahabees, and even prevailed upon some of the tribes to join his standard. A judicious distribution of bribes and promises procured him information from all quarters, and greatly facilitated the operations of the Egyptian forces; yet, notwithstanding these advantages, and the prodigious efforts made by Mohammed-Ali, the war which had continued seven years, was only ended by the destruction of Derayah, the capital of the Wahabees.

The Turkish forces suffered great privations, and their losses were very considerable. In the second year of the war they had already lost eight thousand soldiers, twenty thousand followers, principally felhas from Egypt, and upwards of eight thousand horses and beasts of burthen.

Mohammed-Ali himself visited Arabia, and remained a short time at Mecca; here the skeriff Ghalleb, who had been actively instrumental in promoting the success of his arms, was loaded with presents and promises; but before Mohammed quitted the place, he caused him to be seized, confiscated his large estates to his own use, and sent him prisoner to Cairo, where he shortly after died.

On the surrender of Derayah, the villages which composed it were totally destroyed, the date trees, which afforded the principal part of the sustenance of the people, were all cut down; the whole territory was wasted and made as desolate as

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to the garrison of security to their women and children, should they be sent out within an hour." No attention was paid to this offer, and the garrison being soon afterwards compelled to surrender at discretion, were sent prisoners on board the fleet. Major Warren adds, "The women and children, to the number of four hundred, were, at the same time, collected together in a place of security, and I am happy to add, *without a single instance of either insult or injury to their persons or feelings having occurred.*"

"Major Warren's Report, Dec. 23, 1819."



Ibrahim's means permitted. The famine and pestilence which ensued upon it swept the people off in great numbers.

The infatuation of the Mohammedan chieftains appears very extraordinary. Knowing each other as well as they do, always being on the watch to circumvent and destroy each other as they constantly are, and considering, as they do, all means as fair for the accomplishment of their purposes, they nevertheless place themselves in the power of one another, even when it seems impossible for them not to know that it is at the greatest danger to their lives. Mohammed-Ali was constantly prevailing upon men, whose sagacity in other respects is unquestionable, to place themselves within his reach; and notwithstanding every man he either disliked or feared was butchered the moment he got him into his power, others from time to time continued voluntarily to sacrifice their lives by a blind confidence in his promises.

Abdallah had removed most of his family from Derayeh, and might have escaped with the remainder before the place was given up: instead, however, of doing so, he surrendered himself to Ibrahim, and went into Egypt. He and his followers were received at Cairo by Mohammed-Ali with marked respect. Mohammed, however, sent him to Constantinople, where, having been exhibited to the people, he and two chiefs who accompanied him were beheaded.

The subversion of the Wahabees has been so complete, that it is not likely they will ever again appear in any considerable number.

The country of Nedgid, of which Derayeh was the capital, is of vast extent, lying between the Red Sea and the Persian Gulph. According to M. Mengin, it contained 280,000 inhabitants, exclusive of the Bedouin Arabs, whose number is stated to be 187,400. M. Mengin has collected a great deal of curious information respecting the culture and fertility of the soil, its commerce, money, weights and measures, as well as of the habits and manners of the people, the number of soldiers, and their modes of warfare. His information leads him to conclude, that the rations of one European soldier would suffice for six Arabs. From the small quantity of sustenance they require, and from their mode of warfare, they can keep the field a long time; and it is chiefly their paucity of wants which renders them formidable to an invading enemy, where difficulties always increase with his distance from the places whence he must draw his supplies.

Mohammed-Ali was the only Turkish chief who could have effected the conquest of the Wahabees. No force which the

Porte could have brought against them would have been able to subdue them; Mohammed-Ali knew this, and, instead of following the Turkish mode of warfare, he assimilated his arrangements, as nearly as circumstances would permit, to those of the more civilized nations of Europe. This enabled him to supply the army with provisions and military stores, and from time to time to repair the losses sustained in men and animals.

The war being carried on upon this footing, the allies of the Wahabees fell off as their difficulties increased. It is probable that the plunder which the Arabs obtained while the Wahabees were successful was a stronger inducement to them to fight under their standard than any attachment they felt for the creed of the reformers; and when the means of rewarding them changed hands, they changed sides, and went over to the Turks.

The tenets of the Wahabees were, in some respects, more pure than those of the Turks, but they were more inimical to the formation of foreign alliances, and consequently to the progress of civilization. Besides plundering the holy cities of Mecca and Medina, as well as other places of less note, the Wahabees assisted the pirates on the coast of Arabia, and in the Persian Gulph. This induced the governor of Bombay to send an expedition against their principal station at El Thatyf (Masul Inheima) under the command of sir William Grant Kier and to co-operate with Ibrahim-Bey for their destruction. The English commander, on his arrival on the coast, was surprised to find that Ibrahim had left Derayeh, and was making towards Medina. He despatched captain Sadler after him, in the hope of inducing him to return and assist in exterminating the pirates along the coast. Captain Sadler overtook Ibrahim at Byr Aby, but he refused to return, or to enter into any treaty without the approbation of his father. Captain Sadler, therefore, proceeded with him to Medina, and there awaited the return of a messenger sent to Cairo. Mohammed-Ali declined the offers made by captain Sadler, who, thereupon, returned to Bombay. Captain Sadler is the only European who has ever crossed the peninsula of Arabia. An account of his route was published in the Bombay Transactions.

The return of Ibrahim to Cairo was celebrated with great pomp. He had subdued the enemies of the true faith, who had persevered for a century in their attempts to subvert it; he had achieved most glorious victories; the enthusiasm of the soldiers and the people was raised to the highest pitch, and the power of Mohammed-Ali received a great accession.

Notwithstanding, however, that the turbulent and ill-organized soldiery had been to a considerable extent got rid of in Arabia, and a large portion of his present army having been raised since the massacre of the beys, was more likely to be devoted to his commands, and more effective against his enemies; the army was still a licentious and ill-conditioned body, little accustomed to subordination, for which Mohammed thought it necessary that employment should be found at a distance from the capital.

Some of the beys, and a considerable number of Mamelukes, had taken refuge in Upper Egypt, and Mohammed-Ali thinking his purpose was but partially accomplished while any power independent of his will remained within his dominions, directed his attention to that quarter. According to M. Mengin, he had other potent reasons for sending forces to Upper Egypt.

‘After the submission of the country of Neeljet, Mohammed-Ali formed the idea of carrying his arms into the interior of Africa. At the same time that he felt the necessity of expelling from Cairo an insubordinate soldiery, he hoped to induce a population of negroes to fill up the void caused amongst the inhabitants of Egypt. It was therefore determined that the upper and lower Nubia, and the kingdom of Sennaar should be conquered. Three thousand boats loaded with powder, shot, baggage, and field stores, were assembled in the port of old Cairo; a sufficient number of camels and dromedaries were provided for the passage across the desert at Esné, and a reconnoitering party of 500 cavalry under the orders of the Deftendar, Mohammed-Bey, was sent as far as the frontiers of the province of Dougalah. The Mamelukes encamped in the neighbourhood, having ascertained the march of these forces, and the preparations for the expedition, retreated to a greater distance. Twenty-five of them came to Cairo to implore the clemency of the viceroy. The son of Ali-Bey Tayoumy also came to request protection for his father. The pacha replied that he would grant it to all except Mohammed-Bey, Maufoukh, and Abelerrahman-Bey. When Ali-Bey would have returned to Egypt, the other Mamelukes, his companions in misfortune, combined against and killed him; his death caused the greatest grief to his family.’—Vol. ii. p. 194.

This expedition was put under the command of Ishmael, Mohammed-Ali’s youngest son, who set out from Cairo in the summer of 1820.

The facilities afforded by the Nile, made the conquest of Upper Egypt a far less arduous undertaking than the extirpation of the Wahabees. M. Mengin has described the proceedings under Ishmael with great minuteness, and apparently with much candour. The different chiefs, on the approach of Ishmael’s army, made demonstrations of an intention to resist,



but they generally submitted on the first defeat; this, however, availed them little: the country was ravaged, the inhabitants seized, and sent as slaves into Lower Egypt. Such was the treatment of these unfortunate people, that the greater part of them perished on the journey.

M. Mengin informs us, that the kingdom of Sennaar was in a flourishing state, when invaded by the troops under Ishmael; industry was encouraged, cultivation was extending, and great ameliorations were gradually taking place on its conquest by Ishmael. "Population, the first riches of a state, is the foundation of its existence; under the pretext of furnishing soldiers to Egypt, whole families were taken away; the father would follow his son, the women their husbands, and the children their mother. These unfortunate people were conducted to Syéna, where the soldiers tore them with violence from their relatives, and put them into a barrack, to be instructed in the art of war. The women of all ages, and the children, were conducted to Thaire, to be sold at a low price, as their number diminished their value."—Vol. ii. p. 226.

We are then told, that the attention of Mohammed was continually occupied by the project which he had conceived, of extending his conquests into the interior of Africa. Not contented with the conquest of Nubia and Sennaar, he caused a large body of troops to invade Kerdosan, which, after some fighting, was taken possession of by the Egyptians. "The Inhabitants of Kerdosan were treated in the same manner as those of Sennaar; the troops sent in excursions amongst the mountains dragged away the unfortunate people, who were forced to abandon their cottages. In the last caravan sent from Kerdosan, in the month of May, there were two thousand slaves of both sexes. Six hundred arrived at Syéna. They had the appearance of spectres rather than of human beings. Mothers and children, overcome with weakness and want, fell on the sand, and terminated their sufferings in death."—Vol. ii. p. 228.

The cruelty with which the war was carried on, and an insult given to one of the chiefs by Ishmael, who struck him, because he did not furnish slaves, after he had declared his district was depopulated, and he had no longer the means of complying with the demand, caused this chief to resolve on taking vengeance upon Ishmael. He concealed his resentment, until at length an opportunity offered itself of taking vengeance. Ishmael with about forty of his attendants, were surprised in a village, while asleep: the village was burnt, and Ishmael and his attendants were all put to death. Having thus gratified his resentment, the chief fled with his followers to Abyssinia, and escaped.

Nubia, Sennaar, and Kerdosan, have, however, remained under the domination of Mohammed-Ali, who has a considerable force in each of these countries, the whole consisting of about 3,500 felhas, and as many Turks.

This force has been found sufficient to keep these countries in subjection. Indeed, from the great number of people who were seized, and sent to Egypt as slaves, these provinces have become almost a desert.

The valley of the Nile, from the first cataract at Syéna to Dongola, is a mere strip of cultivable land, in some places affording to the husbandman only a few feet in width, along the banks of the river, on the slime left bare during its decrease. In Kerdosan and Sennaar, there are periodical rains, which promote vegetation; but the showers are not in sufficient quantities to form contributory streams to the Nile.

Two German travellers from Frankfort, Kuppel and Haye, ascended both the branches of the Nile, to about N. lat. 12°, and having with them proper instruments made many observations, since published by Baron de Zach, at Genoa. It appears, from the accounts of these travellers, that the eastern branch of the Nile, the White River, is a sluggish lake, or morass, the water of which rises at a particular season, but much later than that of the Abyssinian branch.

Travellers from Europe have now no chance of being able to penetrate into Abyssinia from the countries occupied by Mohammed-Ali, whom the people suspect of an intention to invade and subjugate their country: and after what they have seen of his conduct in respect to Sennaar and Kerdosan, they are perfectly justified in prohibiting any one whom they suppose to be in favour with their inexorable enemy from entering their territory. The people of Darfour are, at least, equally careful with those of Abyssinia, in preventing all communication with the subjects of Mohammed-Ali, and with all who can be supposed to be under his influence. The governor of Darfour seized, and detained as prisoners, an ambassador and his suite, sent by Mohammed, with presents, and offers of friendship.

A desert of six days journey separates Kerdosan from Darfour; but it is not at all improbable that the pacha will some day push his troops across this desert and invade Darfour, where it is reported two beys and some Mamelukes have found an asylum. The conquest of Darfour by Mohammed, would enable us to increase our knowledge of the interior of northern Africa; and whatever effect it might have on the people of that country, it seems impossible, according to M. Mengin, that it can be injurious to those of the neighbouring districts.

‘Every year the king sends troops to carry war into distant countries, in order to procure slaves: in these excursions the soldiers have a right to a part of the captives. Their expeditions extend into the country of Mong-Befeg, Châl el Hofrah-Dang-Feroukah, Thâr, Youe, El Nabe, and Monoud; these species of oasis bear the generic name of El Fartyn. The people who inhabit them, placed in the midst of deserts, at a greater or less distance, have no means of defence against their rapacious aggressors, who reduce them to slavery. They have neither religion nor form of government. They sometimes carry on war amongst themselves: the strongest party makes slaves of the others, and exchanges them to the merchants of Darfour, for provisions or articles of commerce.’—Vol. ii. p. 232.

We have mentioned that the success of the war in Nubia, Sennaar, and Kerdosan enabled Ishmael to send a great number of slaves to Egypt. With these was commenced the formation of an army, drilled and organized according to European discipline. The officers were chosen from among the Mamelukes and Turks. By Mamelukes, must not here be understood the remains of the soldiery of that name who had long governed Egypt, but Georgians, and other foreign slaves purchased by the Turkish chiefs, and brought up in their households. It was necessary to commence the formation of the new army, by drilling the officers, and this duty was performed by colonel Sève, formerly an officer in the French service, and aide-de-camp to general Bire, during the war in the peninsula. Mohammed-Ali found in Sève, a man well adapted to overcome the prejudices entertained by the people against this innovation. The change was first visible in the conduct of the officers, who, as they became acquainted with the rudiments of European tactics, began to take an interest in the instruction they received, and cheerfully imparted it to the privates.

Mohammed-Bey, a man of talents, a faithful adherent of the pacha, enjoying his confidence, and possessing considerable influence, commanded the camp, which was at first placed at Assuan, but as the newly-introduced discipline succeeded, was gradually brought nearer to Cairo. The experiment having so far been successful, and no doubt being entertained of the possibility of its general introduction, a conscription was made of the felhas, or peasantry settled in the villages along the banks of the Nile, a race of men distinguished from the roving Bedouins by their quiet submission to whomsoever governed the country. These conscripts were mixed with Nubians and others brought from the south, who proved equally obedient and tractable. This was in a great measure owing to their being well paid and regularly rationed. The pay of both officers and men is, when the comparative cheapness of provisions and the



abstemious habits of the people are considered, much higher than that of soldiers of similar grades in European armies.

As the number of troops augmented, more officers were required for the purpose of instructing them. These were procured by the French consul-general Drovette, to whom is ascribed the merit of first having suggested to the pacha the utility of forming his army, as much as possible, on the European model. As these officers, however, are Christians, they are not permitted to hold a direct command over Mussulmans, but are called instructing officers. They are attached to different corps of the army, which they accompany in war. Their duty is somewhat analogous to that of adjutants in a European army.

Their number does not exceed thirty, mostly French and Piedmontese, who served under Buonaparte; few of them have either been well educated, or attained any considerable rank in the army; some of them had previously been in the service of the Greeks.

Mohammed has also in his service about an equal number of French and Italian physicians and surgeons: some of them are able men, but by far the greater part are mere adventurers, who have not been regularly brought up to the professions they follow.

About a year after the introduction of the new discipline, colonel Sève embraced the Mohammedan faith, and obtained the rank of bey, with the command of a division of the army. Mohammed-Ali holds out no encouragement to others to follow his example. They are useful to him in their present employment, and he fears to intrust a number of Franks with the command of any considerable portion of his troops.

The troops thus disciplined amount to about 30,000. As soon as the conscripts and slaves are formed into battalions, they are sent off to the army. About 4,000 are stationed in Arabia, and as many more in Nubia, Sennaar, and Kerdosan. The number sent to Greece may amount to 20,000, half of whom have been destroyed by change of climate, and by the operations of the war. The disciplined troops are always united with a Turkish force, and the cavalry and artillery are entirely Turkish.

After all, these disciplined forces are but a very clumsy imitation of European soldiers. As a regularly-disciplined army, they would be a disgrace to more civilized nations; they are dirty and slovenly in their persons, awkward in the drill, as well as in their manœuvres and the use of their arms. It is not possible that Turks who have had no education, and who are generally unable either to read or write, can, in a short time, be made good

officers. Many are appointed to command who have no knowledge whatever of the duties they ought to perform. Boys from the Harem, and favourite slaves of the chiefs, are sometimes made captains and field-officers. So long as this mode of supplying officers continues, it is impossible for the army to become efficient; but every advance, however small, has a tendency towards subordination and improved discipline, and is, therefore, of importance to the viceroy. The increased unity of the military force as a whole, and the regular supply of rations to the men, enable the commanders to direct their operations more steadily than heretofore, and this has rendered the army sent to the Morea more formidable than it would otherwise have been.

Mohammed's army in Greece is, at present, principally composed of felhas: the small-pox, change of climate and diet, and the chances of war, have caused the death of a large portion of the Nubians, and others brought from the south.

The felhas are of a dark brown complexion, approaching the copper colour; they are stout, well-formed, active men, lively and hardy, all excellent qualities in soldiers; add to which, that the subjection in which they have been brought up, renders them obedient and submissive to the discipline, such as it is, of the pacha's army. As might be expected, the non-commissioned officers have but little influence over the men. When roused to make a show of insurrection against their oppressors, their courage has always been estimated very low, and it will probably be found, should they ever be opposed to a regularly-disciplined army, that it has not yet been very much elevated.

Mohammed appears to be aware of the defectiveness of his officers, and, willing to adopt any means of remedying the evil, short of the employment of Franks in the direct command of his troops. He has lately taken the French general Boyer into his service, and has given him a salary of two thousand pounds a year. General Boyer has two or three intelligent French officers with him, by whose means it is intended to organize a general staff for the army. A Turk, whose recommendation was a knowledge of the French language, has been placed at the head of the staff, and is the medium through which all orders are transmitted to the Turks. The formation of an efficient staff will not be so readily accomplished as was the drilling of the men; and it is not easy to conceive how, with the best arrangement likely to be formed in this respect, troops in the field can be manœuvred, unless the instructing officers who may be with the army perform the duties of field-officers.

The camp is still under the command of Mohammed-Bey; it is now placed about four leagues below Cairo, on the borders of

the desert, and generally contains from eight thousand to ten thousand men. From this camp, detachments are sent to the various armies of Mohammed, as they are required. The camp occupies a large space, and is laid out in streets. One of the exercises of the troops, while in camp, is throwing up field-works. They appear satisfied with their condition, and perform their duties cheerfully; but Mohammed-Ali is not satisfied with appearances; he knows the character of the people, and takes care not to give them any opportunities for desertion. Besides the usual guards round the camp, which are supplied from the camp itself, Bedouins are stationed in an outer line, and these active Arabs render all chance of escape nearly hopeless.

The success of Mohammed-Ali in organizing an army has led him to adopt measures for forming a navy: he has stationed a few French naval officers on board a guard-ship in the harbour of Alexandria, for the instruction of conscripts taken from the boatmen of the Nile. Besides the instruction they receive on board the guard-ship, they have a small vessel, in which they occasionally sail, but none of them have as yet, we believe, been sent to sea.

Mohammed's navy consists of about thirty vessels, ten of which are frigates, manned from the shores of the southern and eastern coasts of the Mediterranean sea, with a few Greeks and Franks, the latter mostly French and Italians. The vessels are badly manned, and dare not face the Greeks. As they are not in a condition to convey the troops to the Morea, this expedition could not have taken place, but for the cupidity of Europeans of all nations, who, eager to charter their vessels at a high rate, agreed to carry the Egyptian troops across the Mediterranean. These vessels sail with simulated papers for Trieste, Zante, and other places, which enables them to run into the Morea. The British permit the right of search by the Greek vessels of war; but both the French and Austrians refuse to do so, and resist it.

Mohammed-Ali receives military stores directly from France, under the management of general Lèvron, who has been for some years constantly employed in this service. General Boyer had, it is understood, permission from his government to accept the rank of bey from Mohammed-Ali, and necessarily became, at least during the time of his actual service, a Mohammedan. The French government, however, affects neutrality, and shows its impartiality, by permitting French officers to remain in the service of the Greeks: colonel Fabrier and a few others are still in the Morea.



This policy has, no doubt, its advantages ; for although the number of French officers actually employed by the belligerents is small, and the jealousy of the pacha of Egypt prevents their being placed in situations in which they may attain any direct command over the troops, the prospect, nevertheless, allures many dissatisfied and unemployed officers, buoys them up with hope, and leads them to expect employment abroad, which they cannot find at home. By these appointments, the French officers acquire a knowledge of the languages of the people, among whom they reside ; they become familiar with their manners and customs, and acquainted with the geography of the country. In Egypt they have made friends of many of the Arab chiefs, over whom they possess an indirect influence, which, if (as is by no means unlikely) the French government look forward to a future invasion of the country, will be highly useful. The policy most likely to be pursued by that government will be that of placing able men in these countries, and especially in Egypt ; and this will be done so cautiously as either wholly to avoid awakening the further suspicion of the pacha, or if that cannot be avoided, to excite it as little as may be consistent with their views. It is from Frenchmen and Italians who have been, or are still employed in Egypt, Nubia, Sennaar, Kerdosan, and Arabia, that M. Mengin has collected most of the statements his book contains respecting these countries ; which, however full they may appear to be, do not probably contain the whole of the information he has collected and transmitted to his government.

The formation of a disciplined army in Egypt, and the comparative efficacy to which it has been brought, with the probable chance of further improvement, are very surprising facts ; they have excited considerable attention in most of the countries of Europe, which is now increased by the evident intention of the divan at Constantinople, to reform the Turkish army upon the plan adopted by Mohammed-Ali. For this purpose the French instructing officers, by whose means his army has been disciplined, have been sent to Constantinople. The circumstances which enabled Mohammed-Ali to carry his project into effect have been explained. Attempts had frequently been made at former periods to new-model the Egyptian armies, but they never succeeded ; on the contrary, they had generally proved fatal to the innovator, and had nearly proved so to Mohammed-Ali himself.

‘ It had long been the intention of Mohammed-Ali, to adopt the European dress and military discipline in his army ; as he was aware that tactics make up for the want of number, he manifested his intention on his return from Arabia. After some preparatory exhortations, he went to Boulôg, to review the army of his son Ismayl. Having made the troops

perform several evolutions, he declared that he would introduce amongst them the nizam godid, and that those who refused to obey the orders which should be given, should be punished, and expelled: having thus so positively declared his will, he proceeded to Chabrâ; the troops began to murmur; seditious spirits raised the flame of revolt, and several chiefs, in concert with their troops, formed the project of overturning the power of the vice-roy.—Vol. ii. p. 49.

This was immediately followed by an insurrection, which continued three days; during which, Mohammed shut himself up in the citadel. Much mischief was done, and many lives were lost. It required all Mohammed's experience and tact to appease this revolt. By a suspension of the obnoxious orders, payment from his treasury to those who had been plundered of goods, largesses to some of the troops, and judicious appointments to office of several influential persons of opposite sentiments, Mohammed at length succeeded in restoring confidence.

Mohammed was not however deterred from his purpose by these untoward circumstances. Selecting the privates in the manner already stated, and appointing the officers, in the first instance, from the Mamelukes of Cairo, who had been accustomed to implicit obedience, he avoided giving offence to the Turks; and by forming his camp at a great distance from his court, and from the rest of his forces, he succeeded in carrying his new measures into effect. He never again attempted to introduce the new discipline among his Turkish and Albanian troops; and it may be a question, how far he would benefit himself, were he even successful in such an attempt. His disciplined Arabs and Negroes are sufficiently numerous to keep the main body of his armies in a state of organization, while his Turks and Albanians are useful corps of irregulars, each man being accustomed to act for himself, and rely on his own resources. The imperfect discipline to which these troops could be brought, in the absence, too, of officers possessed of intelligence to command them in those critical circumstances which frequently occur in an engagement, would not compensate for the loss of the qualifications which they at present possess. The sultan will probably not attempt to introduce the new discipline amongst his old troops, but will put it in practice among recruits brought from the Asiatic provinces.

A continued accumulation of abuses has deteriorated the Turkish army to such an extent, that to apply the term soldiers to the ill-appointed followers of Boulouck Bashi, with arms often nearly unserviceable, is absurd. The Turkish government have for some years past been satisfied that their troops are very

inferior to those of the other nations of Europe, and that the bravery which in former wars almost compensated for organization and discipline, no longer remains.

During the late disturbances in Moldavia and Wallachia which induced the Russian autocrat to withdraw his ambassador from Constantinople, and led to an expectation of immediate war, a sensation was felt in that capital similar to what might have been expected had the Russians conquered these principalities, and arrived victoriously within a short distance of the metropolis. Thirty years ago such a dispute would have been much more likely to have produced sentiments of contempt than of fear. Still the Ottoman empire in Europe would not, even now, fall without a desperate struggle, and a victorious army would find Constantinople a heap of ashes.

The consequences likely to result from the attempt now making to renovate the strength and revive the courage of the Turkish soldiers cannot at present be foreseen : it will require great circumspection and address to enable the sultan to carry it into effect to any considerable extent, and it will scarcely succeed at last, unless some arrangement is made by which foreigners can be employed in the direct command of the men, not only as superior, but even as non-commissioned, officers ; and this is not likely to take place.

Sultan Mohammed does not seem to have been a favourite with the Janissaries at any time ; but as they had no one of his family to put in his place, they permitted him to remain in power when they might have deposed him. Whilst his son lived, they used frequently to call for him, and insist upon seeing him. His early death led them to suspect that the sultan had himself been accessory to that catastrophe.

From the immediate call for the instructing officers of the Egyptian army, and the ready compliance of Mohammed-Ali, before he had replaced them, it may be inferred, that he was an accessory by his intrigues to the destruction of the Janissaries. By means of these officers, Mohammed-Ali will obtain considerable influence over the newly-raised corps, of which, should circumstances permit, he will not fail to take advantage.

Much has been said and written on the terrible consequences which it is supposed would follow the occupation of Constantinople by the Russians ; these are nothing less than the subjugation of Asia Minor, Persia, and the peninsula of India. These apprehensions seem to us altogether visionary. Had Constantinople been in the possession of the Russians at the death of the emperor Alexander, the Russian empire would have been split in two ; Constantine would have governed in the east,



Nicholas in the west ; and such a division of territory could not fail to follow the possession of Constantinople. Two capitals such as Petersburg and Constantinople could not long co-exist as parts of the same empire, and neither the one nor the other could be abandoned. A new state, probably two or more states, would be established in Europe on the ruin of the Ottoman power ; and as these would be in the hands of a more enlightened people than the Turks can be expected to be, civilization would take place of barbarism, and humanity be a gainer by the change.

Alliances would be formed between the other powers of Europe and the governors of Petersburg and Constantinople ; it would soon be discovered that countries so differently situated, and so differently circumstanced, had separate interests to attend to, and instead of making common cause as one nation, the two powers would be as distinct as any two nations in Europe now are. It may be fairly predicted, that the civilized world will be benefited to a great extent, when Turkey in Europe shall, as it must some day, be occupied and governed by people who are not Mohammedans.

To return to the present situation of Egypt :

The inundation of the Nile having fallen short of the usual height in two successive years—1824 and 1825, the price of provisions has more than doubled, and has been the consequence of much misery among the felhas. This has in many cases been increased by the severe conscription which took from many families their only support, and reduced the number of labourers necessary under such circumstances to raise water for irrigating the land.

The polygamy which is permitted would, however, under circumstances which left the felhas tolerably at their ease, soon enable them to replace the inhabitants, of which the proceedings of Mohammed have deprived the country. He will probably yet see the necessity of ameliorating the condition of the people, as a step towards his own greatness, the perpetuation of the measures he has introduced, and the general advantage of the country. Certain it is, that hitherto they have not upon the whole been benefited by the government of Mohammed-Ali.

The felha is, it is true, protected from the predatory excursions of the Bedouin Arab, and from the extortions of the followers of the different chiefs who, during the domination of the Mamelukes, were constantly contending for superiority, and to whose rapacity the people frequently became a prey. In these contentions, however, the sheiks generally took part with the people ; whose energies were thus called forth and who were led to consider themselves as of some consequence. At present

they are depressed to the lowest possible state of wretchedness, have lost all confidence in themselves, and have less left to them by the arrangements of Mohammed than was left to them by the Mamelukes and predatory Arabs.

The Pacha does not trust to his new troops for either garrison duties or the protection of the country. The beys and kachefs, who command in the districts, require a certain number of troops, for guards and police duties, and these are wholly composed of Turks. The number thus employed in Lower Egypt is about nine thousand men.

In the Spring of 1824 a considerable insurrection took place in Upper Egypt. It was produced by the intolerable oppression and cruelty practised towards the people, the enormously heavy taxes, and the burthen of the conscription. The insurgents got possession of the country from Ghenneh to Assuan, and kept it for several weeks, until a force of several thousand Turks, two thousand of whom were cavalry, was collected in Lower Egypt, and sent against them. The insurrection was soon suppressed, and its suppression was followed by the cruelties usually practised on such occasions. Such was the severity of the punishments inflicted that, however miserable the people may be, another insurrection will hardly be attempted.

The greatest danger to the Pacha on this occasion, and that which he chiefly feared, was the desertion of the felhas from his camp, at that time near Kanfaclant, in which there was about sixteen thousand men. Had the insurgents marched at once upon this camp the half-drilled felhas who composed it, dissatisfied as they were with the intention of sending them to the Morea would have joined them in a body and the government of Mohammed-Ali might have been overturned. The Pacha concealed his alarm, and affecting to place confidence in the soldiers in the camp, despatched part of them to meet the insurgents, but the Turkish troops were always kept in advance and had the charge of all the outposts.

The slight sketch which our limits have permitted us to make of the wars which Mohammed-Ali has maintained, will enable the reader to form some notion of the immense resources he has drawn from Egypt. The most remarkable circumstance is, however, his having carried on, during the same period, several great public works, at an enormous expense; his having also established extensive manufactories, and produced articles of commerce to a great amount; and his having effected most of these things in opposition to the prejudices not only of the people, but of those who guided and governed them. What makes all this the more remarkable is, the extraordinary fact,

that not only was there no such thing as a manufactory of any sort in the country when Mohammed-Ali was appointed to the office of Pacha, but that there was not, throughout the whole country, either of those common and simple contrivances, a pump or a crane. At present, all the usual machinery for facilitating commerce and carrying on manufactures is to be found in Egypt.

Considerable difficulty was at first experienced in procuring machinery, its exportation from England being prohibited by impolitic laws, which have not even yet been repealed. Mohammed was, therefore, obliged to resort to France for the machinery he could not obtain from England. It turned out, however, that French machinery did not, in several cases, answer his purpose, and that the French engineers employed about the machinery were exceedingly deficient in knowledge: the works then in progress were consequently retarded. Within the last three years, the difficulty of procuring machinery from England has in a great measure been removed. The laws which forbade the emigration of artizans have been repealed; those which prohibit the exportation of machinery will not, probably, remain much longer in the Statute-book. In the mean time, the execution of those laws has been suspended, as occasion required, in respect to Egypt; since which large quantities of machinery have been sent from this country, and orders for still larger quantities are now executing. Luckily for the Pacha, he found in a young man, the son of an engineer in London, a rare combination of talent, knowledge, and indefatigable industry. To him the services of this gentleman have been, and still are, invaluable. Under his direction most of the machinery, in the several works and factories for civil purposes, has been put in motion.

Mohammed Pacha has established a manufactory, in which the ordinary, and, in some cases, extraordinary machinery has been constructed: for instance, wrought-iron screws, eighteen feet long and nine inches in diameter, for cotton-presses, have been made there.

He has several sawing-mills and rolling-mills for gold, silver, and copper, coining-presses, packing-presses of all sorts, steam-engines, paper-manufacturing machinery, a type-foundry, and printing establishment, smitheries, powerful turning-lathes, and other necessary and important tools and implements.

We cannot accurately state the precise number or extent of the cotton manufactories in Egypt; but we have been credibly informed that last year no less than ten manufactories were completed, each containing from 2,500 to 3,000 spindles, and that fifteen others are in a state of forwardness.



Power-looms have been introduced, and orders for a very large number of these machines are now in progress in this country.

Cotton-printing has been carried to a considerable extent.

These factories have been set up in most of the principal towns, such as Miniet, Siout, Benesouf, and others. The buildings are large and commodious, and in some of them at Cairo the manufacture is carried through all its several stages, from the raw cotton to the printing, glazing, and packing.

There are shearing and dressing machines for woollen cloth, husking and cleaning machines for coffee and cotton wool, and many other equally useful contrivances.

The moving power of the machinery is the labour of animals. This, as fuel is scarce and dear, while forage is in great plenty, is by far the cheapest. It is not possible to employ water-power, since, except at the cataracts in Upper Egypt, the fall of the Nile is not sufficient to permit the use of water-wheels.

Each establishment is under the immediate direction of a Frank, who acts as overseer, having in most cases several other Europeans under him, to superintend the particular processes going on.

In these pursuits, as indeed in every thing else in which the Pacha can personally interfere, he is active, punctual, and indefatigable. It is by no means unusual to find him with his watch in his hand before five or six in the morning, at one of the works going on, timing the workmen, and calling those to account who come late.

In the arsenal which Mohammed-Ali has constructed at Cairo, cannon have been cast and bored. As, however, he has since employed the French general, Lèvron, to procure cannon from France, he has probably found that he cannot manufacture them in sufficient quantity to supply his wants, or that he can purchase them cheaper than he can make them. About two hundred Frenchmen and Italians are employed in manufacturing muskets and small arms.

Mohammed has also constructed in Cairo a nitre manufactory. Nitre is found in large quantities in the rubbish of the ruins in Upper Egypt. In this rubbish it may be distinguished by the taste. It is sent down the Nile in a crude state to Cairo, where it is refined by the process of evaporation. This manufacture and the gunpowder-mills with which it is connected, are conducted by an Italian, who was formerly employed in the French powder-mills at Milan. The powder is not of good quality; the defect is supposed to be occasioned by the badness of the charcoal, which is brought from the Red Sea.

A palace at Cairo, of great magnitude, is now building for the Pacha.

The greatest public work which the Pacha found means to accomplish, is the canal from the Nile to Alexandria, opening a communication with that place, without the danger which vessels incur in crossing the bar of the Rosetta mouth of the river, in going seaward to Alexandria. The canal was executed under the direction of Turkish officers ; its tortuous course has made it unnecessarily long. It is about fifty miles in extent, on nearly a dead level, without locks or gates at either end. It does not communicate with the sea at Alexandria, so as to admit boats to pass into it ; there are merely sluices to permit the escape of the redundant water. No care has been taken, in the line of its approach to Alexandria, either to improve the appearance of the place, or to render it more defensible, both of which objects might, to a considerable extent, have been effected.

Ishmael-Pacha was the chief director of the work, and the oppression and cruelty with which he carried it on, is related by M. Mengin, without a single word in reprobation of the atrocity.

‘From the beginning these difficulties might have been avoided, if the Turkish engineer, charged with the execution, had not commenced the enterprise without having previously practised the rules of the art. No preparations were made ; a party of felhas were sent from Lower Egypt to the spot, without having the implements necessary to commence such a work, or having formed magazines of provisions for their subsistence. A great number of these wretched men perished, as well from want of water and provisions, as from ill treatment and the excessive fatigue to which they were unaccustomed. The soldiers placed as guards over them, allowed them no respite, but forced them to work from day-break till late at night ; they were obliged to dig the earth with their hands, and to remain in the water, which oozed from every part. In the space of two months, nearly twelve thousand of them perished. The sands covered their remains.’—Vol. ii. p. 333.

The number of men employed is stated in a table constructed by M. Mengin, at 313,000.

This canal did not fully answer the purpose for which it was constructed until lately : it was only near the time of the inundation, that the djennes employed in the navigation of the river had sufficient water at its entrance from the Nile, which was every year choked up by the soil deposited during the inundation.

This might have been avoided, and the canal kept open at all necessary times, had a good line been taken, the junction with the river made at another place, and proper gates put up to command the entrance during the inundation.

The attention of the Pacha having been drawn to the defective state of the canal, he attempted to provide a remedy, not by turning its course, but by means of two powerful dredging machines, driven by steam-engines, each capable of lifting sixty tons an hour. These were constructed in London, and sent to Egypt. At first, they were used to remove the silt left by the inundation at the mouth of the canal, and afterwards to deepen it: each machine is attended by twenty-four barges, carrying from twenty to twenty-five tons each, and employing two hundred and fifty felhas.

Djennes can now enter the canal at all times, except for a short period, when the Nile is at the lowest.

In excavating with the dredging machines, large quantities of the ruins of an ancient city have been brought up.

Whether the expense incurred is compensated by the use of the canal may be doubted. But Mohammed-Ali does not calculate these matters like a merchant, but like a sovereign whose will is law.

Another canal has been cut, for the purpose of irrigating a plantation of mulberry trees, intended to promote the growth and manufacture of silk. This work was also placed under the management of Ishmael-Pacha, who employed 80,000 felhas upon it: it was soon, however, put under the care of M. Coste, the viceroy's architect, who completed it.

Mohammed-Ali could procure all the commodities which he causes to be manufactured in Egypt, cheaper, and of better quality, than he can produce them: and this he understands thoroughly; but he is much more desirous to increase the ability and dexterity of the workmen employed, and thus, as he hopes, to introduce and establish a new order of things in Egypt, than to save the difference in the cost of these commodities.

Next to the export of grain, which, like every other branch of commerce and manufacture, is a monopoly in the hands of the viceroy, cotton is the produce which yields him the greatest amount of profit; the growth of cotton, of fine quality, was introduced only five years ago. The quantity exported from Alexandria averaged for two years 180,000 bales, and produced about a million sterling; one-third of this sum may be estimated as gain to the viceroy. But the water of the Nile not having attained its usual height in the last two years, and labourers being scarce, in consequence of the severe conscription to replace the mortality in the armies, more especially in the Morea, the export was reduced last year to 120,000 bales. It is said that the Egyptian cotton contains a quantity of fine sand, which injures the machinery in the mills.



Mohammed-Ali has also turned his attention to the cultivation of Indigo, for which the climate appears to be favourable. The quantity produced last year was 35,000 pounds weight.

The cultivation of sugar does not appear to have been successful. Neither the sugar when refined, nor the rum distilled, is palatable. Although the refined sugar appears to be of good quality, it is deficient in saccharine matter, and the rum has an empyreumatic taste. The cause of this may be, that the cane does not ripen sufficiently, in consequence of the coldness of the nights. Another cause may, perhaps, be found in the earths used in refining the sugar, the use of blood being forbidden by the Mohammedan creed.

By regulations recently made, in fact by a sort of law, Mohammed-Ali has appropriated to himself a great portion of the land of Egypt. He has thus ruined many of the sheiks and others who held it. "Whilst Mohammed-Ali was endeavouring to consolidate his power, he at the same time wished to introduce a change in the administration of the lands, but the innovations he made were detrimental to the public interests. The rights of property were neither acknowledged nor respected." [Vol. ii. p. 337.] But the most remarkable circumstance in the whole of the conduct of this extraordinary man is, his singular short-sightedness in omitting to improve the condition of the felhas, notwithstanding he might have done this to a considerable extent, and to his own advantage.

'Yet the felhas are no less indigent: they are constantly the victims of a defective and vacillating administration. The impost to which they are subject is beyond their means; it exceeds the amount of the duties and rents which they used to pay before the new organization; and the distribution of the lands has only increased the number of feddâns without augmenting their revenues. The feddân is not master of the produce of his harvest, nor can he dispose of it before the government has taken the quantity of the commodity proper for exportation, at the prices agreed on, and with the deduction of the myry. The requisitions of every species destined for the use of the prince and the principal persons of his court are paid for in the villages at one-half of their value. The felha only receives in money the amount of those commodities which he sells in the market; how can he therefore pay the tax? no resource is left him. In the month of March one is astonished to see the contrast between the rich appearance of the crops and the miserable state of the villages. If it is true that there is no country so rich as Egypt in territorial productions, there is not perhaps any whose inhabitants are so wretched. It is only to the fertility of the soil, and the temperance of the labourers, that it owes the preservation of its present inhabitants.'—Vol. ii. p. 341.

Such is the condition of the felhas. That it might easily be improved, is shown by M. Mengin, who observes that,

‘The first duty of a government is, to adopt the means of preserving the population, as that is the foundation of the prosperity of a state. The present situation of Egypt is adapted to facilitate that object. The viceroy being sole proprietor of the lands, it is his interest to ameliorate the condition of the felhas. It is easy to perceive, from the persons of these men, that they live in a continual state of hardship. Their cottages are confined, damp, and unhealthy. It would be easy to construct in the villages more commodious habitations, which would unite the advantages of health and comfort; the same materials might be employed; it would only be requisite to raze the huts, and to construct them on a plan more extensive, and more adapted to the situation.’—Vol. ii. p. 318.

It seems almost vain to expect that the condition of the people will be ameliorated, looked upon, as they have always been, as the mere slaves of the powerful; their lives are valueless in the estimation of their masters, except in so far as they may be made to promote some interested purpose.

The measures adopted by Mohammed-Ali, could they be persevered in, would in time civilize the people of Egypt, and thus promote the increase of their power, their number, their importance, and their happiness. But the continuance of his arrangements depends almost, if not entirely, on his life. It is, we fear, more than probable, that the surprising advances made in a few years in Egypt, and which would, if steadily continued, at no distant period place that country on a footing with the nations of Europe, will terminate with the life of the present governor.

All the circumstances in which Mohammed-Ali is placed are peculiar. It requires great judgment, and extraordinary resolution to introduce measures which tend to promote the advancement of a people so barbarous and so prejudiced as those he governs. The very means he is frequently compelled to use necessarily tend to impair the permanence of his projects: he has only a choice of evils, with the almost hopeless chance of living so long as to make it the decided interest of those who may possess the power on his decease, to pursue with ardour such measures as may tend to perpetuate the work he has commenced.

One great impediment to the long continuance of the commerce and manufactures of Egypt is the universal monopoly retained by Mohammed, and the consequent impossibility of creating a middle class, whose weight, and wealth, and intelligence might perpetuate and advance the civilization, increase the comforts, and elevate the ideas of the common people. Whether the inhabitants of Egypt, from various causes, of which

the Mohammedan superstition is one, would permit the establishment of a middle class of society,' appears to us more than doubtful. Few private persons under the Turkish system can become of any considerable importance either as agriculturists, manufacturers, or traders, and consequently there cannot be enough of such persons to constitute a class. It is also the interest of the Porte to keep Egypt dependant on Constantinople, and this can only be done by retaining the people in a state of abject dependence, ignorance, and poverty; and its chiefs in a constant state of suspicion and jealousy of one another. These matters are well understood by the Turkish governors, and we may be quite certain that no means will be omitted which can at any time be taken to produce effects so desirable to the reigning sultan.

Some of the evils occasioned by the viceroy's monopolies and commercial restrictions, are pointed out by M. Mengin, who, although he has not drawn all the inferences which his premises would have borne out, has left us to conclude that he entertains but little hope that the projects of Mohammed-Ali, valuable as they would be if they could be perpetuated, will be continued beyond the period of his life.

'Since every species of industry is monopolized by the vice-roy, the productions of art are very little esteemed; they are accused of negligence in the preparation of manufactures; servitude, which has replaced the rights of property, has destroyed emulation; the workman labours without caring whether his work is well or ill-done; all that he looks for is, to receive the price agreed on.'—Vol. ii. p. 375.

'The plan adopted by the viceroy is the object of general dislike; it destroys all interests, and impoverishes the inhabitants. It would conduce more to the prosperity of commerce, and to the happiness of the population committed to the rule of the viceroy, if he would renounce all monopoly, except of those articles reserved for exportation.'—Vol. ii. p. 396.

The Turks, even those in Egypt, were averse not only to the changes introduced by Mohammed in the organization of the army, but generally to his other measures, and particularly to the employment of Franks; nor is this dislike by any means removed. Ibrahim-Pacha, whom the viceroy is supposed to intend for his successor, was at first unfavourable to the changes projected in the army, and it was not for some time that he was either actually or apparently reconciled to them. Mohammed Bey, the minister at war, and a few other chiefs, possess great influence, which, on the death of the viceroy, they will be disposed to use. The people would be pleased with any change;



and it is hence concluded by many who are well acquainted with the country, that the succession will be disputed. Were the Pacha to die at the present juncture, Egypt would rapidly revert to the state of anarchy in which he found it. The new army would take a decided part against the government, and as of late a considerable number of felhas who were serjeants have been promoted to the rank of subaltern officers, it might happen that, by their influence, and under their guidance, the people would make an attempt to free themselves from Turkish superiority.

Mohammed-Ali is fifty-seven years of age, and being strong and healthy, may live many years, and continue to prosecute his views of personal aggrandizement and national improvement.

He is reported to have much influence in the divan; most of its members are suspected of being in his pay. He has long been endeavouring to have the pachalic of Syria conferred upon him; but has not hitherto obtained it, in consequence, it is believed, of the opposition of one of the ministers at Constantinople, who has represented to the sultan that he was already too powerful for a subject, and that he possessed too much influence, so much, indeed, that not one of the pachas would march against him, even if ordered so to do by the sultan.

Mohammed-Ali has retained all the conquests he has made in Arabia, Candia, and Africa, to which he now hopes to add the Morea. Were such a deplorable event to happen, it would, at no great distance of time, place him in a state of war with Constantinople, and draw upon him the hostility of the principal European powers, which would speedily terminate in his ruin.

Much more might be said of the viceroy Mohammed-Ali, and much of his proceedings in Greece: but our limits will not permit us at present to enter upon the wide field this subject would open: it must, therefore, be left till another opportunity.

In taking leave of M. Mengin's work, we should not do him the justice he merits, were we not to say that it contains a great mass of very curious and useful information on all subjects relating to the several countries which have been subdued by the arms of Mohammed-Ali.

**ART. IX.**—*Travels in Chile and La Plata, including Accounts respecting the Geography, Geology, Statistics, Government, Finances, Agriculture, Manners and Customs, and the Mining Operations in Chile ; collected during a residence of several years in these countries.* By John Miers. Illustrated by original Maps, Views, &c. In 2 vols. 8vo. Baldwin and Co. 1826.

2. *Rough Notes taken during some Rapid Journeys across the Pampas and among the Andes.* By Captain F. B. Head. 8vo. Murray. 1826.

**T**HE relation of the Spanish settlements in America to Old Spain was not the ordinary one of a colony to the mother country. The new continent was considered as the peculiar possession of the king of Spain, held in conjunction with, and not in dependence on, his European territories. The authorities in America derived their power immediately from him ; and, for their instruction, and for the regulation of American affairs, a separate council was established, which, under the title of Council of the Indies, governed the new world directly from their master the king. An especial code of laws was formed with great care for the better protection of the country, and to guard it from the intrusion of foreigners. From the conquest of America to the last moment of the authority of the Spaniards, the colonies seem always to have been regarded as a strong box of treasure, which the most jealous vigilance and the sternest discipline could alone guard from the rapacity of the rest of the world, who were supposed to be always lying in wait to pounce upon the object of their prey. By the provisions of the *Recopilacion de las Indias*, the punishment of death awaited any stranger who should land on the shores of America within Spanish jurisdiction. These prohibitory laws, though not acted upon to the letter, were enforced with such a degree of rigour that no circumstances of distress or accident could justify the intrusion. While, on the one hand, the world was kept in the dark with respect to the interior of the Spanish colonies, the inhabitants themselves on the other were prevented, by a system of cruel and unrelenting oppression, from either feeling any curiosity with respect to others, or from advancing to that stage of civilization in which they might be able to give an account of themselves. Spanish India was governed by viceroys sent directly and with very few exceptions invariably from the mother country ; and every office and employment was filled by strangers, whose only object in leaving Europe was, to amass a fortune and return. Americans were systematically excluded, not only from office, but from the advantages of education, of travelling, or of discussion. The object of Spain was, by degrad-

ing the inhabitants, to retain them as its slaves. The country was covered with agents, interested in the maintenance of the system, and a most complicated organization of authorities was every where established; ineffectual, when considered in relation to the primary objects of government, but amply sufficient for the purposes of oppressing and brutalizing the Creole population of the country. By forbidding agriculture, by confining the movements of individuals within certain boundaries, by fixing the settlements in particular spots, and by exercising a rigid control over the actions of every man, the Spanish authorities made the mines the only means of existence; and reduced the inhabitants to a fit temper to become the willing slaves of their masters. This state of things was precisely calculated to produce in Europe a profound ignorance respecting South America. Restless curiosity combined with a very small portion of facts gave birth to the absurdest fictions, and the most marvellous stories. When late events threw open the gates of South America, it is not surprising that imperfect information acting upon exaggerated anticipations should have deceived Europe into forming very wild speculations on the results of this great change. In a case, especially, where sentiments of patriotism and liberty, joined to the brilliant prospects of commercial enterprise, combined to delude, it might have been expected that England would take the lead in the schemes which the idea of *El Dorados* now a second time discovered were calculated to suggest. The experience of the last few years is familiar to every one.

The spirit of commercial intoxication, which seemed to pervade the air, has evaporated before the wholesome knowledge which itself has mainly contributed to procure, and which is probably the only benefit it is likely to leave us. On the one hand, the revolutions of South America have liberated the press, and have afforded copious and interesting subjects to native writers; while, on the other, the greedy speculations of our countrymen have inundated the new world with keen observers, who, though they looked in vain for wealth, found a rich treat in examining the manners, the customs, the character, and the resources of the country. Several publications have appeared respecting nearly all the states into which the continent is now divided; information respecting Chile has been somewhat more tardy. The instructive journal of captain Basil Hall threw much light upon the changes that had taken place in the opinions and institutions of the country, and on the character of some of its leaders. Of late, however, there have appeared two works connected with Chile, which supply



a fund of curious information on the state of this country, its recent history, its resources, its government, its inhabitants, and its mines and mining operations, more particularly as they respect the interest of British speculators.

Mr. Miers's *Travels in Chile and La Plata* is an elaborate and a valuable book. The industry, however, is more shown in the compilation of the facts than in the arrangement of them. Its style is confused, intricate, and incorrect; and the want of order in the management of his materials is much more conspicuous than lucid. It would be, however, better to accept the author's apology for these defects than to permit them to throw into the shade the fact, that his two copious volumes are full of the most interesting details of every important description, that his views are generally enlightened, and always liberal, and that his observations, though a little embittered by failure in some of his projects, and by personal circumstances arising out of them, are judicious and important. Mr. Miers's *Travels* partly consist of travels properly so called, and partly of the results of his inquiries digested under distinct and general heads. He embarked from England with a large quantity of machinery, a wife, and several engineers, for Buenos Ayres, with the intention of proceeding thence across the continent to Chile, there to establish a manufactory for rolling copper into sheathing. The first part of his work describes his route from Buenos Ayres, across the Pampas, over the Andes, and his reception in Chile. He then commences a series of political and statistical details, from which principally, and from other sources, we propose to give such a sketch of Chile as its relations with this country at the present moment, and the very great ignorance which prevails respecting it, may make interesting.

Captain Head was sent to South America, as the chief commissioner of one of the mining associations. The mines appear to have been non-existent, except in the brain of the projector; for captain Head galloped six thousand miles in search of them, and seems at length to have been obliged to give up the search, and to have dismissed his troop of Cornish miners, who were engaged on the strong suspicion that gold and silver were to be had every where in South America, for groping for them. Captain Head, in the vain hope of finding the mines over which he had been installed the chief commissioner seems to have rode up to every mine in Chile and La Plata, and to have demanded, wherever he came, whether these were the company's mines, and, if they were not, what they might be had for. A mining tour of this description, though doubtless very fatiguing to the worthy captain, and highly perplexing, con-

sidering that all this time his miners were getting well paid for doing nothing but getting drunk at Buenos Ayres, could not have failed to be very instructive, if he had thought proper to give us the result of his inquiries. When his company follows so many other good companies, we hope he will be prevailed upon to give to the world his mining experience. In the mean time he has published a lively and entertaining account of the face of the country, and the manners of the people, in the form of extracts from his pocket-book; and has appended to them certain dear-bought advice to persons disposed to speculate in the mines of Chile and La Plata, which we can recommend as peculiarly sensible and judicious.

Chile lying on the coast of the Pacific, and the voyage round Cape Horn being especially tedious, the most obvious route for European travellers is, to make for Buenos Ayres, and thence travel across the continent; a route with which the descriptions of Mr. Miers and captain Head have made us peculiarly well acquainted. Mr. Miers, by the accident of travelling with a newly married wife, who was brought to bed on the Andes, came into too rough a contact with the rude entertainment of the Pampas. Captain Head, who is a hardy soldier, and who rode till "no fatigue could kill him," to use his own expression, has given us a clearer and a happier view of these vast plains, which lie between Buenos Ayres and the Cordillera of the Andes. That huge belt of the continent of South America comprehended under the phrase "Chile and La Plata" is so well in part described by the graphic pen of captain Head, that we shall depend upon him for a sketch of the Pampas, and trust to other sources for a more formal account of Chile. The Cordillera of the Andes, running pretty nearly north and south through the whole of South America, divides it into two unequal and different portions. To one looking to the north, on his right hand the immeasurable plains called the Pampas spread from the Andes to the shores of the Atlantic; on his left the rugged and mountainous districts of Chile lift their barren tops to a cloudless sky; the snow-streams of the Cordillera fertilize the winding valleys which they fold in their bosom. On the side of Chile, these streams are intercepted at every step, and twine and trickle through every conceivable obstacle: on the other nothing intercepts their progress: they flow on in huge volumes and with a majestic stillness until the waters of the Atlantic receive them, or they are swallowed in the salt and sandy swamps of the Pampas.

' The great plain, or Pampas, on the east of the Cordillera, is about



nine hundred miles in breadth, and the part which I have visited, though under the same latitude, is divided into regions of different climate and produce. On leaving Buenos Ayres, the first of these regions is covered for one hundred and eighty miles with clover and thistles; the second region, which extends for four hundred and fifty miles, produces long grass; and the third region, which reaches the base of the Cordillera, is a grove of low trees and shrubs. The second and third of these regions have nearly the same appearance throughout the year, for the trees and shrubs are evergreens, and the immense plain of grass only changes its colour from green to brown; but the first region varies with the four seasons of the year in a most extraordinary manner. In winter, the leaves of the thistles are large and luxuriant, and the whole surface of the country has the rough appearance of a turnip-field. The clover in this season is extremely rich and strong; and the sight of the wild cattle grazing in full liberty on such pasture is very beautiful. In spring the clover has vanished, the leaves of the thistles have extended along the ground, and the country still looks like a rough crop of turnips. In less than a month the change is most extraordinary; the whole region becomes a luxuriant wood of enormous thistles, which have suddenly shot up to a height of ten or eleven feet, and are all in full bloom. The road or path is hemmed in on both sides; the view is completely obstructed; not an animal is to be seen; and the stems of the thistles are so close to each other, and so strong, that, independent of the prickles with which they are armed, they form an impenetrable barrier. The sudden growth of these plants is quite astonishing; and though it would be an unusual misfortune in military history, yet it is really possible, that an invading army, unacquainted with this country, might be imprisoned by these thistles before they had time to escape from them. The summer is not over before the scene undergoes another rapid change: the thistles suddenly lose their sap and verdure, their heads droop, the leaves shrink and fade, the stems become black and dead, and they remain rattling with the breeze one against another, until the violence of the pampero, or hurricane, levels them with the ground, where they rapidly decompose and disappear—the clover rushes up, and the scene is again verdant.

‘Although a few individuals are either scattered along the path which traverses these vast plains, or are living together in small groups, yet the general state of the country is the same as it has been since the first year of its creation. The whole country bears the noble stamp of an Omnipotent Creator; and it is impossible for any one to ride through it without feelings which it is very pleasing to entertain; for, although in all countries “the heavens declare the glory of God, and the firmament sheweth his handy work,” yet the surface of populous countries affords generally the insipid produce of man’s labour; it is an easy error to consider that he who has tilled the ground, and has sown the seed, is the author of his crop, and, therefore, those who are accustomed to see the confused produce, which in populous and cultivated countries is the effect of leaving ground to itself, are at first surprised in the Pampas, to observe the regularity and beauty of the vegetable world when left to the wise arrangements of Nature.



‘The vast region of grass in the Pampas for four hundred and fifty miles is without a weed, and the region of wood is equally extraordinary. The trees are not crowded, but in their growth such beautiful order is observed that one may gallop between them in every direction. The young trees are rising up, others are flourishing in full vigour, and it is for some time that one looks in vain for those which, in the great system of succession, must necessarily somewhere or other be sinking towards decay. They are at last discovered, but their fate is not allowed to disfigure the general cheerfulness of the scene, and they are seen enjoying what may literally be termed a green old age. The extremities of their branches break off as they die, and when nothing is left but the hollow trunk, it is still covered with twigs and leaves, and at last is gradually concealed from view by the young shoot, which, born under the shelter of its branches, now rises rapidly above it, and conceals its decay. A few places are met with which have been burnt by accident; and the black desolate spot, covered with the charred trunks of trees, resembles a scene in the human world of pestilence or war. But the fire is scarcely extinct, when the surrounding trees all seem to spread their branches towards each other, and young shrubs are seen rising out of the ground, while the sapless trunks are evidently mouldering into dust.

‘The rivers all preserve their course, and the whole country is in such beautiful order, that if cities and millions of inhabitants could suddenly be planted at proper intervals and situations, the people would have nothing to do but to drive out their cattle to graze, and, without any previous preparation, to plough whatever quantity of ground their wants might require.’—Captain Head’s *Rough Notes*, p. 2–7.

In the route which leads across these plains from Buenos Ayres to the Andes, a line of posts, if they may be so called, is established; that is to say, at intervals, which average about twenty miles along this track of nine hundred miles, settlers are found living in a rude rancho or hut, who maintain flocks of nearly wild horses, and retain a few riders or gauchos, as the peasants of the desert are called. The character of these scattered inhabitants is well understood by captain Head, and his description of them is very amusing. In the pages of Mr. Miers we become even more intimately acquainted with the details of their modes of living, or rather of their modes of dispensing with subsistence and every other accommodation which is thought essential by others: he, however, owing to the sufferings of his companion, takes a sombre and unhappy view of them, which is rather to be justified by his own feelings than by their cheerfulness in the midst of privation. This is captain Head’s description of the hut of the keeper of a post-house in these plains:—

‘The hut is lighted by a feeble lamp, made of bullock’s tallow; and it is warmed by a fire of charcoal: on the walls of the hut are hung,

upon bones, two or three bridles and spurs, and several lassos and balls : on the ground are several dark-looking heaps, which one can never clearly distinguish : on sitting down upon these when tired, I have often heard a child scream underneath me, and have occasionally been mildly asked by a young woman, what I wanted ? at other times up has jumped an immense dog ! While I was once warming my hands at the fire of charcoal, seated on a horse's head, looking at the black roof in a reverie, and fancying I was quite by myself, I felt something touch me, and saw two naked black children leaning over the charcoal in the attitude of two toads ; they had crept out from under some of the ponchos ; and I afterwards found that many other persons, as well as some hens sitting upon eggs, were also in the hut. In sleeping in these huts, the cock has often hopped upon my back to crow in the morning ; however, as soon as it is day-light, every body gets up.'—p. 16.

The character of the inhabitant is worthy of the hut that so imperfectly covers him, and of the wild and uncultivated plains on which he dwells. The habits of the savage are oddly engrafted on the courtesy and hauteur of Old Spain. In rags, he is somewhat of a gentleman ; living hard, sleeping on the bare ground, and possessing nothing but a stock of bullocks and horses, he dwells upon his ancestry ; having scarcely ever felt control, he prides himself on his lately recovered liberty, and considers himself the efficient citizen of a republic, which he only knows by report ; he is patriotic, and can scarcely be said to have a country. Scattered as the Gauchos are over the face of the plain, the progress of civilization must be slow among them, and when it spreads it will probably break up their territory into several states. In these plains, on the route to Chile from Buenos Ayres, lie two principal towns of the United Provinces, San Luis and Mendoza, each containing from 8 to 12,000 inhabitants. Here political opinions find a focus ; the love of freedom, and the intelligence respecting the all-important matters of government which flourish in these towns, will gradually widen their circle, and emanate into the most deserted parts of the wilds that surround them. At Mendoza the road diverges, one route leads to Chile, and the other to Peru ; and as Chile, and in part Peru, are supplied with articles of foreign produce from Buenos Ayres, Mendoza is a place of considerable trade, and on many other accounts a town of importance. Not many leagues beyond Mendoza commences the ascent of the Andes. Across the plains the traveller proceeds by means of the horses which are supplied to him in abundance ; at Mendoza they are changed for mules. The manner of travelling, both in the provinces of Rio de la Plata, and over the Andes, possesses, at least, the charms of novelty ; and, in the light pages of captain Head, and even in the graver lucubration of Mr. Miers, many amusing



details are given, for which we must refer to the works themselves. The journey over the plains, from Buenos Ayres to Mendoza, at a rapid pace of travelling, may be performed in nine or ten days; the passage over the great Cordillera occupies nearly as much time. The danger of travelling in the Pampas does not seem to be very great, although in the present unsettled state of the country it is necessary to be well armed. Marauders are occasionally met with, and incursions of the Indians sometimes occur. The hostility between the Gauchos and the Indians is intense; and, as the latter move in large bodies together, and travel with much caution, at an exceedingly rapid pace, the Gauchos frequently fall victims to the vengeance of these extraordinary people. The danger attending the crossing of the Cordillera is of another kind, and even less. There are several passages over these Alps of the new world, into Chile; and, in summer, when the roads are clear of snow, all of them are accessible to mules. In winter it is necessary to travel the principal part even of the best pass, on foot, and then the accidents of being buried in the snow, or blown away by a temporal, are not unfrequent. The pass which is most used, and which on the whole is the best at present, is the high road from Mendoza to Santiago. The ascents and descents are exceedingly laborious, and the accommodations to be found on the road, whether for man or beast, may be said to be none. By this pass both the travellers crossed, to whose works we are indebted for descriptions of the stupendous beauties of this remarkable country. It is impossible to follow them in their details of the route, or even to extract the numerous scientific observations made by Mr. Miers, which bring us to a much nearer acquaintance with the real nature of the formation of this chain than we had hitherto made. We must cross to the republic of Chile.

The Pacific would wash the feet of the Andes, were it not intercepted by a long and narrow slip of mountainous territory which lies on the western side of the Cordillera, and borders the ocean like a fringe. This is Chile running along the shore of the Pacific nearly north and south. The northern division of Chile, about two thirds of the whole, is alone Spanish; the remaining part is Indian, and has never been conquered. This is the only quarter of South America where the indigenous inhabitants have retained their independence. The exact limits between these two divisions are as unsettled as the habits of the people who dwell on them. The Spaniards, however, have never been able to maintain themselves beyond the great Biobio, which crosses Chile between the



37° and 38° of latitude S. flowing from the Andes into the Pacific by the Bay of Concepcion. Frequent incursions, and temporary settlements, have been made on either side of this river by both parties, but generally it may be considered the boundary between them. With the northern, or what must be termed the civilized portion of Chile, is our present concern. It is divided into three great jurisdictions : Coquimbo in the north ; Santiago in the centre ; and Concepcion in the south. Coquimbo, which is subdivided into Coquimbo proper, and Copiapo, is the mining district. It is exceedingly mountainous and exceedingly barren : its fertility is not on the surface. A few vallies, watered by a few snow streams and one or two rivers of no great magnitude, are cultivated, but are wholly incapable of affording an adequate subsistence for even its scanty population. In this province a shower is a rare phenomenon. Captain Hall describes a valley four miles across, which was covered several inches in thickness with Glauber salts. " It looks," says he, " like snow on the ground : the dust raised by the treading of the horses feet upon it almost choked us, and made us exceedingly thirsty, when we hailed the sight of the stream ; but alas, the water was as salt as brine."\* Where this is a specimen of the face of a country, we must look deeper, or beyond, for the means and the inducements to dwell in it. The poverty of the soil, in the ordinary gifts of nature, goes far to destroy the value of the treasure she has concealed beneath its surface. The want of water, and the general unproductiveness of the land, seriously increase the price of labour, and the expenses attendant upon the working and the disposing of the produce of the mines. In the most northern part of the province are rich mines of gold and silver, placed, by these circumstances, out of the reach of the hand of man. Chilenos, who will live cheerfully in the midst of privations which no European can bear, confess that the wealth which the Chaco Alto hides in his volcanic recesses is not to be brought to light but by the wand of the enchanter. The province of Coquimbo possesses few settlements : the scanty population are spread over the country in such directions as their mining pursuits have led them. Its only trade consists in the export of copper and more precious metals ; its imports are provisions, clothes, and other necessaries for the supply of the miners. Coquimbo is subject to frequent earthquakes : the inhabitants think that the interval of a month between these dreadful visitations is a long reprieve. Captain Hall gives this striking description of the effects of the earthquake of April 1819, on the town of Copiapo.

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\* Journal written on the Coasts of Chile, &c. Vol. ii. p. 22.

‘ We rose early this morning, being impatient to see the effects of the earthquake. Over night, indeed, some of these effects had been visible by candle-light, for the house, the only one in this part of the town which had not been thrown down, was cracked and twisted in the most extraordinary manner. It was built of wood, plastered over, and the main uprights having been thrust into the ground, the heaving of the earth had wrenched the parts of the house asunder, but without demolishing it altogether, and given it the torn appearance it still retained. In the Plaza, every house, except this and one small chapel, was completely destroyed. The walls had fallen in all directions, some inwards, some outwards, presenting a scene singularly ruinous and melancholy ; for it was obvious at a glance, that what we saw was not the work of years, but of a cause at once general and rapid in its effects. In a climate without rain, the footsteps of time fall so very lightly that it is probable these ruins were much in the same state as on the day they were cast down, two years and a half before. The walls being from three to four feet thick, none of them above twelve feet high, and built of large, flat, sun-dried bricks, were calculated, it might have been supposed, to withstand the shocks even of an earthquake ; yet, notwithstanding their strength, they seem to have been tumbled down like so many castles of cards. The little chapel above mentioned was built by the Jesuits, who had bolstered it up with a set of monstrous buttresses, occupying an area considerably greater than the chapel itself ; which, nevertheless, was so twisted about, that the roof had fallen in, and the walls were cracked in all directions. Some houses had been so shaken, that not a brick retained its original place, yet the walls were standing, though with a most ghost-like appearance ; and at such an angle, that, in passing, we were not quite free from apprehension of their falling upon us ; indeed, there was hardly a single wall which was not sloping over, more or less. In some places the buttresses were shaken down and gone, but the shattered wall was left standing ; and in many cases they had been forced apart from each other, and were inclined in opposite directions. The great church, called La Merced, fell on the 4th of April, 1819, one day after the earthquake began, and seven days before the great shock which destroyed the town. Its side walls, and part of one end, were left standing, in a dislocated and inclined state, and rent from top to bottom ; but what was curious, the buttresses, which appear to have been broad and substantial ones, were almost all thrown down. One of them, which still remained, was fairly wrenched apart from the building it had been intended to support, the wall touching it at the ground, but standing a yard and a half from it at the top.’—Vol. ii. p. 25.

The province of Coquimbo extends from east to west, about seventy miles, and from north to south from the desert of Atacama to the river Chuapa, about four hundred and fifty miles. The river Chuapa divides Coquimbo from the province of Santiago, and is the boundary of the barrenness of the more northern division. This middle district is intersected in every



direction by ranges of hills that run laterally from the Cordillera, and which form fertile valleys and large extents of table land : towards the more southern part of the province, the hills lose a considerable part of their elevation, and the country becomes rather undulated than mountainous. Trees also are there found of a considerable magnitude ; and in this province the rivers are of a respectable volume. Mines of gold, and some of silver occur. Here, likewise, is the capital of the country Santiago, from which it takes its name, and its chief port Valparaiso. It is in length about six hundred miles, and in breadth varies from forty to fifty. The capital, Santiago, is on the whole one of the finest cities of South America, is situated in an extensive plain, running north and south forty miles, and being in width, or from east to west, fifteen ; bounded on the east by the Cordillera mountains, and on the west by a ridge of mountains called the Cuesta de Prado, which is one of those lofty elevations that divide the capital from the port of Valparaiso, distant ninety miles. Like other Spanish towns the city consists of equal squares or quadras, connected by parallel streets. The river Mapocho runs past the town.

This is a description of a house, such as Santiago principally consists of, extracted from Miers :

‘ The houses generally are very large, or at least they stand upon much ground, usually occupying one third of each front of the principal streets, and one half of the depth of the cross streets, so that each quadra contains six houses ; the rooms are arranged round three quadrangles or patios ; the principal one, which is paved, being in front, is separated from the second, which is generally laid out with flowers, by the large sala and dormitorio ; the third is used for domestic purposes ; the entrance to the front patio is through a lofty and wide archway, closed at night by a pair of large folding gates, which are always open during the day ; the houses are thus open to all the world, as the sala door is never closed, and the family, at the usual hours, is always in readiness to receive visitors.

‘ The windows of the rooms looking into the front patio, more especially the large windows of the sala, are protected by handsome fancifully-wrought rejas or iron gratings, which are always gilt ; all have wooden shutters to keep out air and light ; and some have also glass folding-sashes, framed in tin, but they are seldom to be seen in any other than the sala windows ; generally there are no windows in any other rooms, the door alone admitting light through a little grated shutter, which is hinged in one of the upper pannels ; and in all cases the doors are folding, and fastened, when closed, by a rude huge lock.

‘ The front, looking into the street, is divided off into small rooms, let out as shops ; and it is usual to see on each side of the gateway of a large handsome dwelling a shoemaker, in one of these holes, at work, with his dirty family crawling about, his wife cooking their mess upon



the floor, the whole exhibiting a picture of the greatest misery and filth; or a pulperia, or a chandler's shop.

'The outer rooms round the long side of the corner-houses are also leased out into little shops, or dwelling rooms, to poor people: in the centre of the town, some of these rooms are occupied by small drapers and other classes of retailers, who have no opportunity for displaying their goods but upon shelves—generally a counter is stretched across the room, upon which customers are served, as they stand close to the door-way, by which alone light is admitted into the room: the shop doors are, therefore, always left open during the usual hours of business, but from one o'clock in the day till six o'clock in the evening every shop is closed. They are secured by a common lock, as well as by a huge external padlock, while the shop-keeper goes home to enjoy his dinner and his siesta; they are again opened at sunset, and not closed till eleven at night, when they are again secured in the same way; the shopkeeper then goes to a coffee-house, or to his family, where he takes his supper, and enjoys himself till two in the morning, when he sleeps till break of day.'—Vol. i. p. 433.

Valparaiso, the principal port of Chile, is singularly situated. A mountainous range of country expands itself into a circular bay, without, however, losing its elevation. The coast is therefore one huge cliff, with a few fissures and ravines, and the shore is a very narrow border at the foot of it. On this narrow shore, sometimes so narrow as scarcely to admit a cart-way, the houses of Valparaiso are built. The ravines likewise afford a few openings for habitations; and wherever at the foot of the hills, or on the side of the ravines, a few yards of level ground can be found, a house is stuck upon it. The anchorage in the bay of Valparaiso is pretty secure, except during the northerly gales of winter, when the danger is not great. Valparaiso is the central dépôt for the wares of Chile: here alone supplies can be procured by ships; and from this port proceed the provisions and other necessaries, which the barrenness of Peru renders it necessary to import into that country. The population of Valparaiso has been much exaggerated. It has been said to amount to 10,000, and even 15,000 souls: in the opinion of Mr. Miers, it does not exceed 5,000, or at most 6,000 persons.

The third division of Chile, Concepcion, is the most fertile and the most picturesque of the three. Its proximity to the Indians, however, and the frequent struggles that have been maintained within its boundaries, first between the Indians and Spaniards, and then between the Spaniards who sought refuge and succour amongst their ancient enemies, and the Patriots, have rendered this beautiful province, in many parts, a melancholy scene of desolation. Its natural advantages are,

however, so superior to the more northern provinces that it is very certain, when order is established, and the principles of free trade maintained under the protection of an enlightened government, that this quarter of Chile will prove by much the most valuable and important portion of the republic. It is rich in rivers, and possesses the finest harbours in Chile in the bay of Concepcion. Before the disturbing causes which we have mentioned, Concepcion, the capital of the district, was a populous and flourishing city. Its 20,000 inhabitants are now reduced to about 5,000 miserable people of the most abject description. Its trade is gone, its streets are deserted, and the ruins of its buildings have become the abode of misery and crime.

The quantity of surface of these provinces, and their respective populations, have been estimated thus

	Square Miles.	Population.
Coquimbo .....	32,050 .....	30,000
Santiago .....	25,660 .....	410,000
Concepcion ...	9,250 .....	120,000
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Total ...	66, 960 .....	560,000

A calculation which gives to each square mile about  $8\frac{3}{4}$  of inhabitants.

A very small portion of Indian Chile, which is said to excel the Spanish division both in fertility and climate, is cultivated by its scattered inhabitants. Wood is plentiful, it is watered abundantly by copious rivers, and possesses Valdivia, the finest harbour in the Pacific. This harbour is the sole possession of the Spaniards south of the Biobio, and is the scene of one of the splendid achievements of lord Cochrane. When its almost impregnable batteries were in an admirable state of defence, and manned by a garrison of eight hundred men, with a very small force, and nearly without loss, he stormed its forts in the night, and succeeded in capturing all its strong holds before the morning, together with the town itself, and military stores to an immense amount.

The climate differs little in the three districts, except that rain is scarcer in the north than the south, and generally it is the most delightful and salubrious in the world. The hottest months are those of January and February, when the thermometer frequently rises to  $90^{\circ}$  and  $95^{\circ}$  Fahrenheit in the shade. In the great heat of the day, the inhabitants close their shutters and doors; and, after dining at 12 o'clock at noon, indulge in a long and quiet repose till the evening. During the siesta business is suspended, and all activity ceases till

the breezes of evening, which invariably blow from the Andes to the Pacific at the close of the day, recall the population to the enjoyment of the refreshing coolness. It is then that all the world seems to be full of gaiety; the shops are lighted up, the public walks are crowded, and all the pleasures of society are enjoyed; this continues till midnight: at this hour the principal meal is served, after which the Chilenos retire to their beds, frequently in the open air, to make up for the shortness of the siesta. Rain seldom falls, except in the months between May and August, and the number of rainy days in the course of the year seldom exceeds twenty. The rain falls heavily, but does not often continue with violence longer than three days together. The great advantages of climate which Chile possesses are overbalanced by the frequency of earthquakes, the most awful of natural visitations. The inhabitants live in continual dread of them; and, on the least occasion, from a dreadful anticipation of danger, the Chilenos rush out of their houses, fall upon their knees, beat their breasts, and cry aloud, *Misericordia! misericordia!* Mr. Miers was in Chile when the great earthquake of the 19th November, 1822, took place. He gives the following account of it:—

‘ At half-past ten o’clock on the night of Tuesday, the 19th November, 1822, as my family were retiring, the first oscillation was felt. It was very sudden and violent; we were all alarmed, and paused for an instant, when the falling of the glasses from the sideboard, the cracking of the timbers of the roof, and the rattling of the falling tiles, caused us to rush out of the house. The earth was violently convulsed, heaving up and down in a manner hardly conceivable, and as little capable of being accurately described as our feelings. The timbers of a large corridor were breaking in all directions, and flying off in fragments, while the air was filled with dust from the falling roof. The situation of our two children instantaneously occurred to us. I rushed into the falling building, snatched one boy from one of the front rooms, and carrying him in my arms, ran to the back of the house, where the other boy was in bed; my sensation in this painful situation cannot be imagined. I ran with my two boys to their mother and their aunt; and, by the time I joined them, the great shock was ended; it continued about two minutes. After a lapse of about three minutes, the agitation returned violently, and continued for about a minute, when several of the strong pillars of the corridor were shivered. During this time there was a loud rumbling noise, like the distant echo of thunder in a mountainous country. The heaving of the ground seemed not only to consist of horizontal oscillations, but also of violent uplifting concussions, as if repeated explosions were exerting their force upon the roof of a hollow cavern under our feet, threatening to burst open the ground, or blow us all into the air. Our sensations were truly horrible. There was nothing remarkable in the appearance or state of the atmosphere; the



moon and stars shone with their usual resplendence. Anxious to ascertain the state of my mills, which were on the edge of the river, about fifty yards from the house, I proceeded towards the spot, and was met by my English workmen, who told me the building had been thrown down, that the walls on both sides had been precipitated into the mill-stream, and the roof had fallen in. While making a survey of the damage, another violent shock warned me of my danger; the mill at the time of the first shock was in action; the miller, a young man recently arrived from England, on hearing the first noise of the earthquake, concluded that a nail by some accident had got between the mill-stones, he therefore shut down the sluice-gate, and raised the running-stone. At this moment the walls of the outer room fell, and caused him precipitately to quit the building. During three quarters of an hour we experienced continual and severe shocks, the intervals between which seldom exceeded five minutes, every time shaking down portions of the buildings.'—*Miers*, vol. i. p. 388, 389.

The revenue of Chile is not derived from any direct tax. An attempt has lately been made to institute a *contribucion directa*, which has not yet succeeded, and is likely to be abandoned. Occasional contributions have been levied in case of emergency, and in periods of want, when each person's quota was arbitrarily imposed. Even in such cases, individuals engaged in commerce were the chief sufferers, and the party which supported the reigning faction, and the land-holders (*hacendados*) and other privileged persons, generally escaped their share of the burthen. The ordinary revenue of Chile appears to be derived from tithes, duties on roads, canals, and stamps, retail duties on cattle, eatables, &c. and duties on the produce of mines, and the seignorage of the mint, and the customs, together with certain *estancos* or monopolies. An extraordinary revenue has of late been supplied by the sale and disposal of the church property. The following is the statement of the revenue of the year 1824.

	Dollars.
Tenths ( <i>diezmos</i> ) - - - - -	249,650
Retail duties on cattle, eatables, &c. - - - - -	20,300
Stamp duties, and papal bulls - - - - -	12,787
Confiscations - - - - -	550
	283,287
Custom-house of Santiago during nine months of this year, up to the 7th of November, including <i>Alcavalao</i>	322,546 $1\frac{3}{4}$
Custom-house at Valparaiso in like manner to the 25th of October - - - - -	347,387 $3\frac{1}{4}$
	<hr/> 953,220 $5\frac{1}{2}$
Estimated three months' Customs - - - - -	223,311 $1\frac{1}{2}$
	<hr/> 1,176,531 7

This is the minister's statement; but in Chile the accounts are not made public, and such expositions as the above are not devised without having some especial object in view. Every office becomes the subject of peculation and corruption to an extent unheard of among countries that have not been subject to the sway of the Spanish colonial government. In Chile, honesty, and public principle, are nearly unknown; and occasions of private plunder are sought in every public measure. Such accounts as are made known, are not to be depended upon for an accurate estimation of the money received into the national treasury; neither are the sums received into the treasury, any measure of the sums that have been levied upon the people.

The real produce of the revenue for the year 1824, is stated by Mr. Miers to be the following. We are not aware of the source whence he has derived his information.

STATE OF THE REVENUE OF CHILE.

	Dollars.
Papal bulls of cruzada and indulgence - - -	10,000
Tenths - - - - -	300,000
Bridge duties and Roads with Canal of Maypo - -	62,000
Stamp duties - - - - -	20,000
Duties on Flour, Meat, &c. - - - - -	24,000
Duties on Home-made Spirits, Public-houses, &c. -	20,000
Custom-house (at least) - - - - -	1,000,000
	<hr/>
Ordinary	1,436,000
Produce of confiscated Church property, in rents alone -	200,000
	<hr/>
	1,636,000
Estanco on Tobacco - - - - -	400,000
	<hr/>
	<u>2,036,000</u>

Without the Estanco of Tobacco, there must have come into the Treasury 1,636,000 dollars, whereas the minister acknowledges only 950,000 dollars.

The tenths, or diezmos, collected through America under the Spanish government, belonged to the king of Spain by an especial decree of the papal authority. The whole was at first employed in the maintenance of the church and its hierarchy. The king at length discovered that it was a less expensive mode of providing for the church to allow the priests fixed salaries, and diverted the surplus to other purposes. At this period the system of farming the tenths was adopted, which continues to the present day: the only difference is, that the

Patriot government, dividing the farms into smaller districts, has prevented much speculation, and reaped greater harvests; and that it has still further improved upon the plan of salarizing the priests, by diminishing the incomes allowed them by the king of Spain, to about one-fifth of their former amount. The revenue arising from the tenths has been increased by another cause, which is, the higher price that may, since the Revolution, be obtained for every article of produce. This fact is thus reported by Mr. Miers:—

‘ Now, as all kinds of agricultural produce, in years of abundance, as well as scarcity, have acquired, during the progress of the revolution, a great increase of value, it follows that the revenue of the tithes ought to have increased considerably. A similar advance in the value of cattle has taken place throughout Chile; a fat ox, that used to sell for twenty dollars, now fetches sixty and seventy dollars; a cow, formerly worth eight dollars, is now saleable for twenty-five or thirty dollars; a calf, from eighteen months to two years old, out of which ages it is customary in Chile to select the tithes, was worth, in 1820, only a dollar and a half; whereas, at the end of 1824, they were commonly sold for ten dollars.—*Miers*, vol. ii. p. 189.

It is well known that the commercial system of Spain in South America was one of the most rigid monopoly for the sole benefit of the mother country, and with the most deliberate sacrifice of the interests of the colony. The corruption which naturally sprung out of the Spanish system of government, assisted perhaps by some relaxation of the reins of government at home when held by weak hands, and also by the slow but gradual expansion of intelligence among the population, which no human power can wholly repress, enabled the inhabitants of these countries, some time previously to any insurrection, to evade many of the strictest regulations of the “Laws of the Indies.” Foreigners were admitted; some little education and knowledge of affairs were acquired; and, above all, a most extensive and organized contraband trade was carried on, in defiance of the Spanish authorities, and to the great diminution of the revenue. When the revolutionary government of Chile opened its ports, the customs upon the goods, which there was then little reason to risk by a contraband importation, became a principal source of revenue. The whole importation duties in the first year of independence, 1817, amounted to 375,000 dollars; the nett receipts, in the year 1819, increased to the sum of 1,466,571 dollars. Like every other public office in Chile, the custom-house is made a scene of the most barefaced speculation. The salaries of the officers are insufficient for their maintenance; they, consequently, not only make up a reasonable



deficiency out of the means in their hands, but become themselves the estimators of their own value. The duties are levied upon a valuation, at so much per cent: this valuation, in Chile, is high or low, according to the weight of the bribe, or *empeño*, which is put into the hands of the officer. The foreign agent makes it his business to be well with the custom-house, and, according to his favour with them, is his facility in transmitting his goods. The fair merchant who should have the simplicity to attempt a trade in Chile, without giving in to the system of bribery, would quickly find himself ruined in the endeavour to compete in the market with those who adopt the more economical plan: this system is not confined to Chile, nor to South America. According to the latest tariff, the duties upon the introduction of foreign goods into Chile, are  $26\frac{1}{2}$  per cent, *ad valorem*, on those articles not mentioned in the tariff: on those which are there specified, such as wines, furniture, and other things, the manufacture of the country, double duties, or 53 per cent, are levied. Beyond the impediments of high and uncertain duties, another obstacle has lately been thrown in the way of commerce. By establishing a double custom-house, the principal one at Valparaiso, and another at Santiago, goods, if passed in the first instance at the port, and afterwards removed to the capital, must pay another, and equal *ad valorem* duty, estimated on the increased value of the article, which is augmented by its having already paid duty once and by the expenses of carriage.

The most productive and most important of the ancient estancos, or monopolies of the king of Spain, was that of tobacco. It is allowed that two millions of masas, or pounds of tobacco are annually consumed in Chile; and the revenue derived from this source amounted to between two hundred and three hundred thousand dollars. When the revolution took place, the unsettled state of the authorities, and the corrupt practices of many of the chiefs of the insurrection, reduced this branch of revenue to an insignificant amount. In the first year of independence the produce of the estanco was 183,500 dollars: after that time it did not yield much more than 20,000 dollars, and subsequently became a losing concern. Under this estanco no tobacco was suffered to be grown in Chile: Guayaquil was its principal place of culture on the Pacific coast; the central warehouses of the king were at Lima, whence the supplies of Chile were drawn. From a calculation made by Mr. Miers, it appears that, were the estanco rigidly preserved, and smuggling and fraud prevented, the duty on tobacco would amount to an annual sum considerably more than 400,000 dollars. In consis-

tency with the principles of free trade, and those enlightened maxims of government by which we hope the republics of South America will be directed in all their affairs, the estancos should be abolished, and the articles of monopoly be permitted to enter on the same footing as every other article of commerce. The necessities of the Chilean government, or its dishonesty, have, however, established the estanco on tobacco, and have farmed it to a company, on their performing a certain condition, which is no other than that of paying the interest of the Chile loan contracted in London. What circumstances have led to the late disappointment in this payment we are not exactly informed. The general conduct of the men in power in Chile has, however, been such, that we are much more disposed to attribute any defalcation to their knavery than their inability. Mr. Miers gives an account of the formation of this tobacco company, which is highly illustrative of the mode of conducting financial business in Santiago.

‘After the assumption of the government, by general Freyre, one of the most formidable difficulties that presented itself, was the obligation just then entailed upon the country, of paying the accruing interest, and charges upon the loan negotiated in London, amounting annually to a sum little short of 400,000 dollars; the absolute inability on the part of the government to satisfy so heavy a call, especially under its increasing difficulties, was notorious. This induced a number of native merchants and landholders, conjointly with the resident British commercial agents, to propose to the minister a scheme which should rid him of his frightful burthen; they offered to take upon themselves the punctual discharge of the interest of the loan, provided the ancient royal monopoly of the estanco was renewed and granted to them upon certain advantageous stipulations: they proposed to pay off the whole of the debt at the end of twenty years, as well as to satisfy all intermediate accruing interests, upon conditions that the importation of tobacco should be prohibited to all but themselves, that they might have the right of growing it in the country in lieu of importing it, if they so preferred; that they should have the monopoly of selling it at the price they chose, and also, that they should enjoy the exclusive trade in every other article, formerly estancado by the Spaniards. This monopoly was to continue secured to them for the above term, and the government was to grant them a capital of half a million of dollars to facilitate the carrying of the scheme into execution. The preliminaries of this treaty were agreed upon, but not finally settled, when Freyre annulled the *last new constitution* he had adopted, and called together another congress, who no sooner met than the half finished treaty was submitted to them by the estanguostos under somewhat altered features: all the former clauses and obligations were retained, excepting one, certainly not the least important, that of *paying the principal of the loan* at the end of the term expressed; this article was suppressed, and the contract was agreed to and ratified. It may be justly wondered how

this circumstance happened, but it is only necessary to know the Chilenos, and to learn that almost every body of influence and of capital had a share in the proposed company, and that empeños were not wanting to carry through the desired object with the requisite success.

‘The minister, in his report, states this to be a most fortunate bargain for the country ; so it may be in one sense, since, by the mode followed in the collection of the duties upon the importation of tobacco, no greater sum than 20,000 dollars per annum, was for a long while, obtained ; indeed the greatest sum known to be collected, by the patriot government while the estanco was in force, never exceeded 200,000 dollars.’—Vol. ii, pp. 179, 181.

The contraction of the loan itself appears akin to all the other pecuniary transactions of Chile. A proposal was made to the government by Mr. Yrisarri, then in London, to raise a loan in Europe for the service of Chile. This proposal was referred to Mr. Portales, intendente of the mint, who was desired to report on the utility of such a measure. The report was decidedly unfavourable to it, on the ground that the loan was not wanted, and from a consideration of the terms of it. “The report of Mr. Portales was made on the 15th April, 1822, condemning the proposal to raise money by loan, and yet the loan was contracted for and made public in London on the 18th May in the same year, and consequently before the answer of the government in Chile to the proposal could have been received.” “While the matter was under discussion, a vessel arrived at Valparaiso, from England, freighted with £60,000 in Spanish gold, an instalment of the loan: the temptation was too great for a venal and corrupt ministry to withstand, the money was accepted, and the bargain for the loan was ratified.” The gold was landed at the time when the directorship was reverting from the hands of general O’Higgins into those of general Freyre ; and in the commotion which took place at the time, it is believed that scarcely any of the money reached the public treasury.

Under the king of Spain the duties exacted from the produce of the mines of Chile, constituted one of its principal sources of revenue. The regulation of the mines was placed under a peculiar jurisdiction. The Intendencia de Minería was an administration of importance. Its proceedings were guided by a code of laws and regulations called the *Ordenanza de Minería*, which is eulogized by several writers of intelligence, for its wisdom, completeness, and forethought. The principal object of this *Ordenanza*, was to protect the property of the mine, to secure the discoverer of a mine in his right of working it, and to ensure the just payment of that proportion of the produce which the king claimed as his due. The value of the gold and silver raised annually in the Spanish colonies of America, amounted to



thirty-eight millions of dollars. The duties of Quintos and Cobos, and other privileges and advantages, claimed by the king (such as those arising from monopolies, the sale of quick-silver and gun-powder) on this produce approached the annual revenue of three millions sterling. Before the year 1804 the mines of Chile alone yielded annually 5,212 marcs of gold, and 29,700 marcs of silver: since the Revolution the mines have been less extensively wrought. The mint return of 1824 is reduced in a most extraordinary manner to 868 marcs of gold, and 1,874 marcs of silver. There are more causes than one of this great diminution; the principal, however, is well known to be the smuggling trade in bullion, carried on by the foreign merchants. The efficient organization of the old government, for the regulation of the mines, and the security of the duties is destroyed, while the duties are exacted to the same extent. The difference between transmitting bullion at the price at which it might be bought in the mines, and in coined money from the mint, was never less than thirty-five per cent. The temptation to smuggle was consequently great, and in a country where every one engaged in traffic is a smuggler, irresistible. The duties were evaded, and the small quantity of piña, as the metal is called from the mine, carried into the mint, is supposed to have been taken there as a cloak upon more extensive fraudulent dealings on the part of men who could not wholly conceal their operations.

The information which is supplied by the works of Miers and of Head, on the subject of mining, is peculiarly important. The associations that have been formed in England for the purpose of working the mines of South America, have drawn the connexion between us and that continent, even closer than the bonds of commerce were likely to do. It is to be lamented that such information as we now possess did not arrive sooner, or that the information we were already in possession of, was not more rationally acted upon. It may not be too late for several useful purposes, to give a general notion of the nature of the mines of Chile, and of the methods of working them.

The owner of the mines in South America, and the person who supplies capital to carry on the operations, are rarely united in one. The minero owns and works the mines, and the habilitador, or, as captain Hall translates it, the Enabler, is the capitalist who lends money to the operator. The Ordenanza establishes the general terms of their connection, and the more particular relations are settled by contract. The habilitador is paid in the produce of the mine, which it is stipulated shall be made over to him in certain quantities at a fixed price. The

circumstances of the minero render it desirable that the loan should be made not in money, but in supplies for the miners, and in quick-silver, and gunpowder, and other articles consumed in working the mine. The risk falls wholly on the capitalist, for should the speculation fail, he is not entitled to the return of the money he has advanced, nor if it succeed to any greater portion of success than his fixed allowance. The mines of Chile are generally situated in barren and wholly uncultivable districts, at an immense distance from any seat of civilization or commerce. The population is of course exceedingly scanty, and supplies precarious, and most expensive. These are obstacles to the working of mines, which it requires very abundant and accessible mineral treasures to overbalance. Captain Head, in his judicious observations on mining observes, that these difficulties, in some cases, are so great "that it might be satisfactorily proved that the silver extracted from such mines would not be worth its weight in iron by the time it reached England; while the iron, which was sent from England, would cost more than its weight in silver by the time it reached the mine." In the mining districts of Chile it scarcely ever rains; and water is so scarce that there is often not enough to drink, much less to use for the processes of mining. In many instances fuel is as difficult to be had as water; and, in the absence of all means of extracting the metal from the ore, it has to be carried on the backs of mules to a considerable distance, in order to undergo the first process. These difficulties would be insurmountable, except by a hardy and a poor race of men, who are inured to privation, and who, with the aid of a long experience, have learned to avail themselves of all the resources within their reach, or applicable to the object in view. They who suppose the South American miner ignorant of his art are much mistaken. His processes may be rude, but it would generally be found that more expensive and more refined methods were either not to be had, or not to be afforded. The truth is, that mining in Chile is a wretched trade, and one that could not be carried on unless by the cheapest labour. The circumstances which render that commodity precious must shut up the mine. In the application of machinery to mining, it is chiefly useful where there is water, and the mines are to be drained. It is justly observed by captain Head, that the art of mining in Cornwall is the art of draining; in Chile there is no water, and the Cornish miner's occupation is gone. Mr. Miers gives his valuable testimony to the fact, that the means which the Chilenos apply in most of their mechanical operations are well adapted to the situation in which they are placed.

‘On my arrival in Chile ‘says he’ every thing appeared to be irrationally contrived and barbarously managed ; but the more I became acquainted with the people and their customs, the more I saw of the country and its productions, the better I understood the capabilities of the land, the more I discovered ingenuity in that which I before considered barbarous, and could trace a far better adaptation of those means to the condition of the people, and the present nature of the country, than our own English notions could possibly have contrived. It is the habit of an Englishman, educated in the midst of the most admirable contrivances, and used to means adapted to a highly-refined, industrious and intelligent community, to carry his notions of improvement to every foreign object which comes under his observation ; and it is easier, and more gratifying, to apply these notions than to unlearn his knowledge, and bring back his ideas to a state applicable to a more primitive condition of society. This difficulty will operate strongly towards the failure of the numerous adventures now directed to the vast continent of the new world ; and, on the mining companies in particular, it will operate still more forcibly : in the outset, an immense portion of their capital will be wasted in merely learning how they should conduct their operations to advantage, and in acquiring the necessary experience of the country.’—Vol. ii. pp. 381, 382.

The structure of the metalliferous rocks in Chile is such, that it is found most convenient, for the purpose of extracting the ore, to open galleries on the side of the hills. The passages are so low that the labourer is obliged to stoop, and to carry his burden nearly with his back and knees doubled. The Chilenos acquire a great suppleness in their hams and knee-joints, and crawl along these passages with alacrity. Blasting is necessarily applied in disengaging the lode, and, under the dominion of Spain, in order that gunpowder should not be wanting, or, for another part of the process, quicksilver, stores were established in all the mining districts by the Intendencia de Minería, who supplied the minero at a fixed and liberal price, and under regulations exceedingly creditable to the government. The Tribunal was authorized, not only to lend to the minero as much quicksilver as he desired, but payment was not required until the minero had had sufficient time to have gained the product of his labours. At the end of the year, moreover, the minero’s stock of quicksilver was examined and compared with the quantity borrowed, and he was not required to pay for more than he had actually, at that time, consumed. This was a monopoly by which the government frequently, in the first instance, rather lost than gained—for the price of the quicksilver was fixed by the government ; and, in times of scarcity, it sometimes happened, that the king paid from seventy to a hundred dollars per quintal for quicksilver that he sold to the mineros at fifty.



Another establishment under the old regime, which was partly intended for the encouragement of mining, and partly for the surer collection of the revenue, was the Bank of Rescate. As the government engaged in the former instance to maintain a ready supply of quicksilver at a fixed price, so, by means of the Bank of Rescate, they afforded the minero an opportunity of instantly disposing of the produce of his mines, also at a fixed price. In every mining district the Bank of Rescate had an office where the minero, on presenting his product in piña or in grains, was entitled to receive the value for it in money, at a price established by the government, which allowed the company of the Bank a fair profit on the necessary outlay of capital.

Besides the habilitador and the minero, another character frequently comes into play in the operation of mining. By the *Ordinanza* the discoverer of a mine is only entitled to a certain quantity of ground about the mouth of the pit. Should that land not supply water, or should the minero be destitute of the means for other reasons of establishing mills, or trapiche, he is compelled to resort to the nearest person who possesses the power of grinding the ores he has produced. The trapichero, or miller, is generally a neighbouring haciendado or land-holder. The trapiche or mill, for pounding the ore is a simple contrivance. A small stream of water is made to fall, by means of a hollow trunk of a tree, ten or twelve feet upon a wheel with paddles hollowed like a cup. This wheel turns an upright shaft which passes through the centre of the under mill-stone, and is fixed as an axis to an upper stone which it causes to revolve upon the lower one. Upon this lower stone, the ore is placed, and is pulverized by the revolving weight of the upper one. Water is made to trickle over the ore while it is being ground, which escapes by means of a niche on the lower stone, and carries off the finer particles of the metal, which are allowed to settle in the water that is caught in little pools, as it escapes over the mill-stone. The principal bulk of ore is reduced to a state of mud by the action of the mill and the water, which has been allowed to run through it. In this state it is removed, along with the part which has been taken from the bottom of the pools, to the amalgamating floor, where, by means of quicksilver, the precious portion is disengaged from its viler compound.

The ore is laid on the amalgamating floor, called *la Cancha*, or the *patio de beneficiar*, in heaps containing each half a caxon, or 2,500 pounds weight; each heap is kneaded into a mass with salt and horse-dung, and turned over with a spade for two or three days, until it begins to ferment; at this stage the quicksilver is added. The heap is then moistened with water, and

kneaded by the pressure of the feet of workmen six or eight times a day; in summer for eight or ten days, in winter for three weeks. When the amalgamation is judged to have arrived at the correct point, the heaps are taken to washing-places, where, by the action of water, the earthy and vegetable matters are carried away, and the heavy metallic particles are left behind. The separation of the quicksilver from the more precious metal is effected by a reverberatory furnace and a kind of alembic. In the centre of the hearth of this oven, or covered furnace, is a hole: in this hole is placed a conical jar, the taper end being received in another jar of cold water; on the top of the jar, in the furnace, is placed a grating—on the grating a little iron tripod and a tile; here a lump of amalgam is heaped, and the whole covered by a circular top, which fits the jar: the furnace is then filled with fuel lighted, and shut up. The fire keeps the amalgam in a red heat; the quicksilver is disengaged in vapour, and escapes through the grating into the jar immersed in cold water, where it is condensed, while the silver remains in a porous mass on the tile. In this state it is called *plata en piña*.

The average product of silver from the ore, in the celebrated mines of Potosi, is five or six marcs\* per caxon, or 5,000 pounds weight of ore; at Uspallata, mines on the route from Mendoza to Chile, in a pass of the Andes, two marcs per caxon. The argentiferous ores of Cumberland yield eleven marcs per caxon. This fact alone appears to demonstrate, that the mines of Chile are not to be worked even at the expense of an English mine; and it is very certain that Englishmen would never be so situated in Chile that their labour and their methods could be brought to bear, at any expense approaching the cost of production even in England. It seems clear that the mines of Chile can only be worked while labour is cheap, and the process is so rude as to require a very small outlay of capital. All intelligent individuals, who know the nature of Chile and Chilenos, are of opinion that the speculations of the English companies are likely to end in partial, if not total, failure; and that, at any rate, it is an absolute absurdity to attempt to employ the vast capital which it has been proposed to employ in mining operations. The only plan by which any part of it can be applied with any effect is, in the opinion of able judges, after the manner of the *habilitador*. Captain Head has enumerated, in an appendix to his *Rough Notes*, the frightful disadvantages which agents of an European mining company must encounter, in engaging with the mines of South America.

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\* A marc is 7 oz. 3 dwt. 14 gr. troy, or 8 Spanish ounces.

It is well known that the patriots of Chile had been struggling with various success, for their emancipation from the thralldom of Spain for some years, when, by the assistance of Buenos Ayres, a blow was struck which secured their independence. In 1817, the celebrated San Martin crossed the Andes to the assistance of the Chilenos; and, on the 15th of February in that year, the great battle of Chacabuco was fought by the patriots of Chile, in which the Spanish force was wholly routed. In the spring of the year after, San Martin again defeated the Spanish army in the plains of Maypo, and, since that time, no Spanish force has been seen in Chile. In 1817 the Independence of the Republic of Chile was proclaimed, and the directorship was offered to the victorious San Martin. Whether San Martin had other views, or whether his professions of preferring a private station are to be believed, he declined the offer, and warmly recommended in his stead general O'Higgins. This amiable and well-meaning man had distinguished himself in previous contests against the Spanish authorities by his bravery and resolution in the army, and by his wise conduct and conciliating temper in the management of the factions that tore the early councils of the patriots. He was appointed dictator, and remained in office till the year 1823: having lost his popularity, principally by means of the speculation and corruption of his minister of finance, he was compelled to abdicate, and to retire into Peru. General Freyre, a man better known for his honesty and his good intentions than his talents, had headed the discontented faction, and took the seat of director, which O'Higgins had been forced to abandon. The real power in Chile lies in the hands of a small number of aristocratical families: with the exception of these, the Chilenos, provided they are permitted to follow their occupations in peace, take very little interest in political changes. When O'Higgins was appointed director, he selected five of the most influential citizens as his council. Instead of seconding his views, the supreme director found that they not only thwarted them on every occasion, but that they designed to render their power hereditary. While they were deliberating on this step, the director, by the advice of lord Cochrane, adopted the bold measure of freeing himself from the tyranny of this oligarchy, and issued a decree for summoning a national congress. In 1822 the congress assembled, and commenced its deliberations on a new tariff, and the formation of a constitution. Neither the tariff nor the constitution appears to have been constructed by men qualified for the important duties they were called upon to perform. The following is an outline of the constitution they devised:—



‘ The executive power is vested in a supreme director, whose duty it is to administer, execute, and promulgate the laws of the country ; he has the prerogative of first proposing the outline of any new law, but for this he must have the previous sanction of the council of state ; he is to organize and dispose of the land and sea forces, but not to command them ; to appoint all subaltern officers by his own free will, but none above the rank of lieutenant-colonel without consent of the senate ; he is to declare war or peace as sanctioned by the senate ; to appoint his own ministers, subject to the approval of the council of state ; to mitigate and pardon convicts, but only with the approval of the senate ; to remove public officers for incapacity, with consent of the senate, or for malpractices only, by handing over their accusations to the public tribunals ; to make treaties of peace and alliance, commerce, &c. only by consent of the senate ; to appoint diplomatic agents, and to define their powers only with the full consent of the senate ; to nominate persons to office with consent of the senate : he is to have three ministers of state to assist him in his political functions.

‘ The council of state is composed of seven persons, viz. two members of the supreme court of justice, one church dignitary, one military chief, one inspector of rents, and two acting directors of national economy. Its functions are—to consult with the director, and to approve or reject any project of a new law ; to approve of the appointments of the ministers, or to move for their dismissal ; to examine the budget to be presented to the senate ; in fine to be consulted by the director on every matter of consequence. This body is to assemble in the house of the director twice every week.

‘ The senate is composed of nine individuals, chosen for six years, which term may be indefinitely extended ! Its duties are, to watch over the due observance of the laws and good conduct of public functionaries ; to sanction or disapprove of the laws ; to suspend instantly any executive act of the director, which they may think likely to lead to bad results, or any violation of the laws ; to watch over the national habits and morals ; to regulate the education of youth ; to see that civic virtues and morality may attain public reward and distinction ; to protect private guarantees ; to qualify the merit of individuals, preserving a register of the services and virtues of each citizen to be recommended to the notice of the director, or proposed for benemeritos to the sanction of the national chamber to be admitted to this grade. Moreover, the duties of the senate are, to sanction the rules and ordinances of every public body, or regulations of every public office presented by the director ; to sanction declarations of war, with the previous consent of the national chamber, treaties of peace and commerce, taxes and contributions, budgets, loans, appointments and dismissals of public officers, formations of cities and towns, ceremonials of public feasts, public establishments of all kinds, and a very long list of petty duties which properly belong alone to the executive authorities. The details of its forms of proceeding are minute and childish, particularly such as relate to the distinguishing all the deserving citizens into certain classes in the grand registry of civic merit—viz. that of ordinary merit, deserving merit (benemeritos), and merit of heroic degree (en grado heroico).

‘ The national chamber is a body of representatives called together on any important occasion ; its number must be above fifty and under 200 ; one-eighth part of this body is replaced every year by an equal portion of new members elected for the purpose. The members of this body must reside in the town where the senate assembles ; and, whenever the senate chooses to order a convocation of the chamber, one of the ministers of state, the secretary of the senate, and the fiscal (or attorney-general), proceed to ballot for the names of twenty-five out of the list of the whole chamber ; and the number so balloted are bound immediately to assemble in order to approve or disapprove of such laws as the senate may transmit to them ; to approve or disapprove of questions of war, peace, loans, and contributions ; to sanction the appointment of citizens of ordinary merit, and those of heroic degree ; and to appoint the tribunal of censorship of the press. Each session is to continue during two sittings only, one to receive the laws and listen to the speech of the reporter, the other to discuss and determine the matter : these two sittings must not exceed the time of the two following days.

‘ There are, besides, electoral assemblies formed in every district or parish of 200 inhabitants, whose functions are, to elect or eject such citizens as benemeritos as are proposed to them by competent magistracy. They may petition the executive to discharge any functionary whom they consider to have abused his situation.

‘ A new arrangement is to be instituted in the judicial courts, but no mention is made respecting any reformation in the jurisprudence of the country.

‘ A perfect liberty of the press is pompously declared ; but the law is to permit no one to intermeddle with the mysteries, dogmas, or discipline of religion, or the system of morality generally approved of by the catholic church. The tribunal of the liberty of the press is to be composed of seven individuals ; there is also to be a body of literary counsellors to whom every article to be printed is to be submitted, for the simple and only purpose of cautioning the author against any censurable proposition he may desire to publish : should the author be dissatisfied with this caution, he may appeal to the above-mentioned tribunal, which is to decide upon the subject.

‘ Finally, among the many absurd reforms that are ordered to take place by the new constitution, is that of national morality. A moral code is to be formed, “ wherein is to be defined the duties of a citizen in all stages of his life, and in every condition of society, forming for him habits, exercises, duties, public instruction, rituals, and pleasures, which the laws are to transform into customs, and the customs into civic virtues and morals ! ” ’ — *Miers*, vol. ii. p. 113–117.

Several months before the announcement of this constitution the supreme director, O’Higgins, had resigned his authority into the hands of a small body of individuals, the heads of a powerful faction. General Freyre is destitute of talents for government, and was in fact the tool of this party. His intentions we believe to have been benevolent and pure, and his professions were

liberal and enlightened. It is feared, however, that none of them have been carried into effect, and that the grievances complained of under the directorship of O'Higgins are still more grievous under that of Freyre. Under the former director many beneficial projects and improvements were carried into execution; debts, at first considerable, were in process of time liquidated; and, though there was, no doubt, much speculation and wasteful expenditure, national liberty had been established by the final expulsion of the enemy; the great enterprise of the invasion of Peru had been successfully effected; a navy had been created, and had, under lord Cochrane, performed the most brilliant exploits. Under the second director immense debts were contracted, and the expenditure of the state increased to a frightful extent, wholly beyond the power of the revenue to meet in a time of peace; and, when all circumstances conspired to encourage the projects of reform and retrenchment which had been made the grounds of dispossessing his predecessor of his power. General dissatisfaction prevailed among the people, and the utmost confusion among the parties who controlled the measures of state. At the close of 1824 general Freyre quarrelled with his senate, who refused to concur in the expenses of refitting the fleet, and dismissed it. The new constitution was abrogated, a national congress was summoned, great animosities were kindled, violent disputes arose, and in some commotions in the middle of last year, the assembly of representatives was dispersed by the director.

Chile is still in a state of revolution, and it is very difficult to foresee the steps by means of which ultimate tranquillity and happiness will be established. It is to be lamented that the moral character of the Chilenos seems to require for its purification a fiery trial. The bad faith, the indifference to justice, and the total disregard of honesty or honour in all political matters, must retard the period of the final enjoyment of liberty, civil and religious, in Chile.

Great Britain has already acknowledged the claims which other countries of South America possess of being treated with on the footing of independent nations. Mr. Nugent, who was sent as the British commissioner to Chile, has not found himself authorized to make such a statement of the affairs of the republic, as to induce our government to take the same step with regard to it. This is a disgrace which should be felt, and, were it felt, its effect must be beneficial. The fact is alluded to in one of the latest proclamations of general Freyre as a stimulus to the preservation of order and the adoption of enlightened measures of government.



ART. X.—*Remarks on the Administration of Criminal Justice in Scotland, and the Changes proposed to be introduced into it. By a Member of the Faculty of Advocates.* Blackwood, Edinburgh; and Cadell, London. 1825.

**T**HE manner of conducting the preliminary stages of our Criminal procedure, and its attendant evils, more especially in the provinces, have begun to excite of late some share of the public attention; although those evils, being felt almost entirely by the poorer and less influential classes of society, have as yet escaped with a notice wholly inadequate to the importance of the subject. Of the general barbarity and inconsistency of the criminal law, there are few who have not heard. Discussions have begun, and will probably be long continued, before any substantial change is effected. Indeed it appears not unlikely that whatever changes it may be judged expedient to introduce into the general character of our law, will be directed rather to the civil than to the criminal branch. The cruel delay, vexation, and expense, incident to the procedure of our civil tribunals, and which have become almost proverbial, may, perhaps, as they press severely on the wealthier classes, be on that account the sooner remedied. But who shall remove the evils which affect the well-being of the poorer classes, whose sufferings are in general less known, and whose claims are seldom advocated? Nothing, as we well know, has received more praise than that part of our legal system which relates to the gratuitous administration of certain judicial duties by the country justices; and, if there be some who doubt its excellence, and venture to notice its numerous practical defects, this must be attributed to a propensity now becoming more prevalent: we mean a disposition to try the merits of every institution, however lauded, by the test of utility; and to withhold approbation, till it has been ascertained with as much accuracy as the case admits, that, of all the means by which the end can be attained, the institution in question has employed the best. This subject has also acquired of late a greater degree of interest, from the alleged increase of crime, more particularly in the agricultural districts; a fact which has attracted the notice of the legislature, and is to be inferred from the circumstance of an increased number of committals. This general increase has, we are aware, been by some attributed to those partial improvements which have been introduced into the discipline of the English county gaols, and which are supposed, by diminishing their well-known corruptive tendency, to have induced a greater number of persons to prosecute. The increased amount of crime among the rural population, as compared with that of the larger towns and manufacturing districts (a fact which, however incredible, seems pretty well established) might, perhaps, be

satisfactorily explained by adverting to the continued effects of the Game-laws on the temper and morals of the lower classes, as well as on the intellects of the higher. We wish at present to direct attention to some facts relative to the annual committals, with which we are furnished by parliamentary documents, and to examine the general question—whether the persons by whom the functions of a local magistracy are at present performed, are really the persons best fitted to exercise them. Of this, at least, we feel assured, that whether crime may be increasing or decreasing in England, there are sufficient causes in existence to render its increase not improbable, and a sufficient quantity of evil annually inflicted upon the lower classes to give some interest to the inquiry. It is well known, that of the individuals annually incarcerated in England and Ireland, a considerable number remain in prison some time before their innocence or guilt can be ascertained—a hardship which, till the late establishment of winter circuits, was felt to a dreadful extent, and which still exists, though in a less degree. From the parliamentary returns it also appears that of those annually committed a large proportion are afterwards acquitted on trial, or discharged by the grand jury, having thus unjustly suffered the penalties of imprisonment; in prisons too, the whole effect of which upon their moral character is most pernicious. These circumstances are of themselves adequate to the production not only of an apparent, but of a real, increase of crime; and when conjoined with the effects of the Game-laws (to which we have already alluded), and the permanent influence of a bad system of criminal law, tend directly and strongly to the demoralization of society.

The evils arising from improper committals are manifold, and may be divided into those which are incurred immediately by the *prisoner*, and those which must thence ultimately result to the *public*. To the prisoner, who belongs in general to those classes of the community who subsist by labour, and whose capital may be said to consist entirely in his own health and strength, and in the disposal of his own time, it is an evil of no slight magnitude to be imprisoned for a space of sometimes more than two months; and, when discharged, though innocent, to be obliged to pay those legal expenses, which, however trifling the amount, exceed his diminished means of payment. The loss, too, of character, incident to imprisonment, and the sufferings of his family (if he has one) must not be forgotten in estimating the amount of hardship. To the public it is again an evil, because such is the general constitution of our gaols, that a residence within their walls, while it by no means lessens the force of previous bad habits in those who are really guilty, seldom fails to contaminate those who may have



been innocent at the time of their committal. As the public interest imperiously requires the distinction between innocence and guilt to be as strongly marked as possible, nothing can be more injurious than a course of proceeding which tends to confound them. But the infliction of a certain quantity of suffering in the shape of imprisonment upon a person who afterwards turns out to have been deserving of none, has a direct tendency to remove, *pro tanto*, all distinction between the treatment which is applied to innocence, and that which is applied to guilt. When a man has been allowed to remain in prison a certain time, and when, at the expiration of that time, it is ascertained that no sufficient grounds for trial exist against him, or that, when tried, nothing which amounts to a legal proof of his guilt can be obtained, it is obvious that he has undergone so much gratuitous suffering. But this is not all. The offence, if of a trifling nature, of which the prisoner is accused, would not, were the charge substantiated, be followed by a punishment more severe than that which he has actually undergone; while he must still be considered to all intents innocent. Here we have punishment of the same intensity applied in numerous cases to two sets of persons, whose treatment should be diametrically opposite: imprisonment being meant for the safe custody of the accused in one instance, and for the punishment of the convicted in another.

Such being the evils attendant on incarceration, when improperly employed, it might have been reasonably expected that, in a country whose inhabitants have been long accustomed to boast of the excellence of their law, and of its impartial and skilful administration, so dreadful a power as that of imprisonment would have been intrusted to those only who were competent to exercise it, if not for the good, at least not to the injury, of the numerical majority. It might have been expected that imprisonment, at all times an evil, and trebly so when made the vehicle of moral, and sometimes of physical contagion, should be resorted to only when absolutely necessary, and then, for the shortest possible time. That the contrary of this is the case, is well known to all who are acquainted with the facts; but those facts, striking as they are, will cease to appear wonderful, when we consider by what persons the functions of criminal magistrates are exercised. The author of the sensible pamphlet whose name stands at the head of this article, and which was published more than a year ago, has confined himself more particularly to a view of the comparative merits of the English and Scottish system of criminal justice. In the course of his reasonings, he appears to us to defend some things connected with the existing institutions of Scotland which are not defensible. There is one part of his work, however, in which we feel



disposed to agree with him, and which merits much attention in this part of the island. We allude to that in which he exposes the evils resulting from the administration of legal duties by an unpaid and irresponsible magistracy. Many and loud as are the praises which it has been long the fashion to lavish upon this institution, it will be difficult, we think, for those who entertain any clear ideas as to the nature and ends of judicial duties, to defend it any longer.

The administration of local justice forms one of those services which the landed aristocracy of this country are still expected, in part, to perform, in compliance, probably, with the usages of those ages in which that body constituted the only one by which these duties could be discharged. As the institution of Grand Juries was, it is probable, advantageous to the ends of justice, at a period "when trials came round only once in seven years, and when the powers of law were wielded by fierce, impatient, and arbitrary barons, or the ministers of an arbitrary king;" so, perhaps, the administration of justice by an unpaid magistracy may have been once the less of two evils. In this, however, as in every thing else, relating to our institutions, the practices of less civilized ages are still retained and defended with the most obstinate pertinacity, while the circumstances out of which they arose have not only ceased to exist, but the whole fabric of society is changed. At a time when the art of weighing evidence was so little understood as to resolve itself chiefly into a comparison of the numerical amount of swearers on one side or the other; and when the innocence or guilt of the accused was decided by his success in walking over burning ploughshares unhurt, or in single combat with his accuser; the examination of witnesses was a matter of tolerable facility. According, however, to the opinions of the best-informed persons in the age in which we live, this part of criminal procedure is one of considerable difficulty and delicacy, demanding not only a knowledge of the general principles of evidence, but no small amount of practical skill. That the persons by whom this duty is performed are not required to possess either of these acquirements is sufficiently known; and the result of this deficiency is apparent in the prodigious number of improper committals. As the justices, whose names are in the commission of the peace, are, in general, those persons who enjoy the greatest wealth and consideration in their respective counties, they may almost be said to form an hereditary magistracy, who derive their official situation, not from any peculiar aptitude, or in consequence of any preparatory instruction, but from the accident of having been born in a certain rank, and in possession of a certain quantity of the good things of this life. It follows that, against the effect of their negligence, blunders, or preju-

dices, no efficient security exists. In this respect, its members may be compared to those of that part of our matchless constitution which consists of a chamber of hereditary legislators. Between the members of an hereditary senate, and those of the local magistracy, there are many points of resemblance. They are both indebted for their situation to the circumstance of being born in the higher classes, or possessed of comparative affluence; the necessity of preliminary instruction is not recognized in either case; they are both unpaid in money, and both virtually irresponsible. The former, indeed, are avowedly so: in the case of the latter, there is an appearance of responsibility, which somewhat resembles that in which the members of the cabinet stand to Parliament; responsibility to a collective body, of which they themselves form a part, and over which they exercise at all times a paramount influence. As the encomiums, however, which have been bestowed upon the judicial system in question by its admirers have been principally founded on the circumstance of their being gratuitous, or more properly speaking, of their being unaccompanied by any pecuniary recompense, we may be allowed to offer a few remarks upon the subject of gratuitous services in general.

The exertions made by the country gentlemen in the administration of criminal justice have been represented as generous and disinterested. The people of England, it has been said, had reason to rejoice at the reflection that so many of the wealthy and dignified were found willing to employ their time, without pecuniary recompense, in administering the laws of their country. The country gentlemen resident on their estates, while they thus saved to the state, as has been alleged, the expense of supporting a large number of salaried legal functionaries, might be considered as the natural guardians of the people, and the protectors of public morals. This is, no doubt, a pleasing picture; and, could we forget for a moment the ends for which laws were instituted, and farther shut our eyes to the appalling facts that nearly 1,300 persons are annually imprisoned for offences against the Game-laws alone, while the gaols are filled to overflowing from the effects of improper committals, we might, perhaps, be more inclined to take the rose-coloured view of the matter, and to join in celebrating the paternal cares of the territorial aristocracy. But the merits of every institution must be tried by facts instead of declamation.

It will be admitted that security for the faithful discharge of duties is the principal desideratum in every branch of legislation. The question, then, is, how is this to be attained? The answer is—by employing the same means which are adopted to ensure the faithful discharge of duties in every thing else; by the proper application of rewards and punishments, of pleasure and of pain



By employing, in short, those means which the common sense of mankind has suggested to them as the most fitted to ensure the discharge of the ordinary duties of life.

It becomes here necessary to notice shortly, the principal motives by which mankind are influenced. Human nature, we must remember, is the subject-matter on which the legislator is called to operate; and as the instruments which he employs are drawn from the subject-matter itself, it becomes essential to understand distinctly their nature.

As every human action, from the most insignificant, to the most important, must be preceded by a motive, the first question which presents itself is the following: By what are motives regulated? Were it possible to learn, from experience, the existence of an object, or class of objects, capable of exercising an universal and unvarying empire over all our motives, it is evident that we should at once be furnished with the knowledge which we desire. By obtaining the command of these objects, the legislator would be, in a great measure, enabled to give to human actions the direction which he might wish: in other words, to induce mankind to the performance of one set of actions, and to avert them from the committal of others, to ensure the discharge of duties, and to prevent the commission of crime. These regulators of human motives will be found in the sensations of pleasure and pain, including under the former all those which result from the possession of any object which is generally desired by mankind; and under the latter, all those ideas which men are accustomed to hold in aversion.

From these two main sources arise a number of different motives, which, according as they draw their origin from one or the other sensation, may be called motives of the pleasurable or of the painful class. The pleasurable, it is obvious, will consist of the matter of good, in one or other of its shapes, of pleasure, riches, power, honour, &c.; the painful, of the contrary. These being the only two classes of regulating motives which it is possible to discover by the most complete analysis, we can only influence human action by their application in one or other of the three following methods: either by employing motives of the pleasurable class, or those of the painful, or by uniting both.

That these are facts, and facts of universal application, will not, we think, be denied. With the nature of their practical operation we are all acquainted. It will be found accordingly, that, although mankind in general, are but little disposed to study the constitution of their nature, and to analyze with accuracy the secret springs of action; this universal tendency to the pursuit of pleasure, and to the avoidance of pain, is too striking a circumstance to have been overlooked. It has, on the contrary, been recognized, in one shape or other, as the basis of all



those arrangements between man and man, in which the performance of any set of acts by one party has been desired by another. Sometimes the pleasurable sanction alone has been held out; as in the case of a reward offered for the discharge of any duty, or as a stimulus to the performance of any meritorious action; sometimes the painful alone, as in the case of compulsory labour, or slavery. In civilized ages and countries, however, the most frequent course has been, to unite the two sanctions, as in the well-known relation of master and servant. We are told by Alfieri, that, while at school, he frequently performed the tasks of one of his companions, who was either unwilling or unable to perform them for himself. This he was induced to do, by the promise of balls to play with, if he chose to perform the task, and by the threat of a beating, if he would not consent to do so. Or, to use his own words, “*Mi ci costringeva con questo bellissimo argomento: ‘Se tu mi vuoi fare il componimento, io ti do due palle da giuocare;’ e mele mostrava, belline, di quattro colori, di un bel panno, ben cucite, ed ottimamente rimbalyanti; ‘se tu non melo vuoi fare, ti do due scappellotti,’ ed alzava in ciò dire la prepotente sua mano, lasciandomela pendente sul capo. Io pigliava le due palle, e gli faceva il componimento.*” The “*bellissimo argomento,*” so effectually employed by Alfieri’s companion, is, in fact, the only argument which can be applied to the subject, and it is one of daily and hourly application. It is an argument, too, which but rarely fails. These, then, are the means which the common sense and common observation of mankind have suggested towards the attainment of their ends, where duties of a domestic and private nature are concerned; and in order to ensure the performance of such as are of a public nature, nothing more is necessary than a more extensive application of these means. Were it not that inconsistency in every thing forms one of the most striking features in human conduct, it might certainly appear, at first sight, not a little surprising, that the efficacy of these means, which are so fully recognized in private life, should be overlooked in all that relates to the discharge of public duties; that they should be adopted, where the interests of an individual, or of a family, are concerned, and grossly neglected where those of a nation are in question. And yet it will hardly be denied that, as human nature is ever the same, in whatever circumstances it may exist, and as the public functionary is a man, actuated by the same motives, and instigated by the same propensities, which govern his fellow-men, there appears but little reason for supposing his case to form an exception to the general lot of humanity. The cause of this apparent inconsistency, however, must be sought for in the following fact, that, at the period at which most of the governments of the world have been formed, the mass of

mankind has been too ignorant to recognize this truth, or too feeble to act upon it, even if recognized. Being once established, it was in the power, as it was always to the advantage, of the governing, to maintain this illusion on the part of the governed: which was rendered less difficult by the wide interval existing between them. The wealth of the one, and the poverty of the other, enabled the former class to encourage and sustain the belief that they formed a distinct race of beings.

Having premised so much as to human motives in general, we proceed to inquire into the artificial application of those, by which the performance of duties is to be ensured.

From the co-operation of the pleasurable and painful sanctions, or, in other words, from the holding out on one hand a recompense for the performance of a duty, and on the other hand a penalty for its non-performance, arises *responsibility*, the most powerful instrument, perhaps, of the moral world. It will obviously appear, we think, upon reflection, that the presence of each of these sanctions is requisite to constitute responsibility, or that it could exist only in an imperfect degree without their union. If the pleasurable sanction were alone employed, the discharge of duties would be but badly secured. We may easily conceive what would be the zeal and fidelity of a domestic servant, who should be protected from all danger of dismissal, whatever might be his conduct, while he was at the same time secure of receiving his wages. If, on the other hand, the painful were the only inducements, although it be probable that in this case the services required might be better performed than in the former, one great and powerful stimulus to exertion would evidently be wanting, the hope of enjoyment. It is on this account, that the labour of a slave is seldom so productive as that of a freeman.

Let us now consider the case of services gratuitous and unchecked. Here neither sanction is held out directly. It is obvious, however, that some inducement to their performance must somewhere exist, or they would not be performed at all. If they are of an agreeable nature, the pleasure resulting from them will of itself afford a sufficient security for their performance. Few services, however, are of a purely agreeable nature. They generally involve a greater or lesser portion of trouble, which is only a name for a particular sort of pain, and, as such, is disliked by all men.

We may therefore feel pretty certain, that when services are performed without any ostensible recompense, it is because they are either of themselves agreeable, or because they may be converted, directly or indirectly, into a source either of pecuniary profit, or of some other species of good, in the shape of power, patronage, or increased importance in society. Whether



they are converted into a source of pecuniary gain, or into one of honour and influence, will of course depend upon the circumstances and rank in society of those by whom they are discharged, and upon the greater or lesser check which public opinion can exercise upon their conduct. In the former case corruption will prevail; in the latter the duties will be discharged in a slovenly and inefficient manner. The unpaid magistracy of Ireland affords a striking instance of the former, it being pretty well established in evidence, that the grossest bribery prevails in the administration of what is called justice to the lower classes. It appears distinctly that the more needy of the petty local magistrates are accustomed to receive bribes as a matter of course, and bribes in some instances of the most revolting nature. An example of the latter is visible in the unpaid magistracy of England. This body is, as we have formerly mentioned, composed principally of the members of the resident local aristocracy. The affluence, education, and rank in society by which these persons are distinguished, are sufficient to secure them from all imputation of corrupt practices in their judicial capacity: so far, therefore, it is well; but unfortunately this is not sufficient for the ends of justice. Where a magistrate is virtually irresponsible, his errors or indolence may be productive of as much evil as his partiality. That the provincial magistracy of England is, in all but name, irresponsible, is matter of notoriety. It is idle to talk of the legal remedies which lie open to the party aggrieved. When we consider to what classes of the people those persons belong, who are most liable to suffer from the effects of unmerited imprisonment, it will readily appear that, independently of the odium which they would incur, the heavy legal expenses are quite sufficient to deter them from any attempt to obtain redress. But even if the suffering party should wish to do so, another and a formidable difficulty occurs. The appeal lies from the individual justice to a number of his brother justices; and it is evidently their interest to protect each other as far as possible.

The conduct of those preliminary investigations, which form the province of the justice of the peace, is one which requires particular attention. According to the author of the "Remarks," it is a duty which cannot with propriety be confided to unskilled persons. He insists upon this part of the subject at some length, maintaining that the investigation of criminal evidence constitutes one of the wisest and most difficult of the legal functions, and one in which, without a previous knowledge of the rules of evidence, and no inconsiderable portion of practical skill, the greatest errors may be frequently committed. When we remember by whom these duties in question are actually discharged, it will not appear extraordinary that they should



be performed in a careless and superficial manner. It would be indeed miraculous, that a country-gentleman, whose attention is in general directed to his own business or pleasures, and whose habits of mind (like those of most persons of that class) are not particularly favourable to intellectual labour, more especially when of a dry and repulsive kind, should patiently devote his time to the study of evidence. This is more than can be expected from any man; but to expect it from one who is not paid for it, and who by shifting the responsibility on others can escape the penalty attached to partiality or unskilfulness, would be to expect actions without an adequate motive.

We have hitherto considered the danger of improper committals as arising solely from the love of ease; from that principle, in short, of our nature which prompts us to avoid all sorts of painful sensations, and trouble among the rest, unless we expect to derive from it a pleasure more than equivalent to the pain. This, it would appear, must manifest itself in no inconsiderable degree, where the services are such as to involve much mental exertion, and will, in all probability, acquire the ascendancy, when not counteracted by any efficient check. As matters stand, however, improper committals result from other causes, and must continue to do so while the administration of justice is confided to the same hands. Even were it possible to believe that functionaries unpaid and irresponsible could be in any case, expected to discharge their duties with fidelity, and that it would be expedient to commit to such persons the power of imprisonment, there would still be valid reasons for not selecting for this particular duty, the members of the local aristocracy.

Impartiality is the most essential of the judicial qualities, and it will not be denied that in all which relates to the administration of justice, even the suspicion of partiality, from whatever cause arising, cannot but be prejudicial. In selecting, therefore, those functionaries who are to conduct the preliminary stages of criminal procedure, and who possess the power of committing to prison, it is highly expedient to guard, as far as possible, against the existence of any bias by which they may be predisposed to judge favourably, or unfavourably, of any particular classes of persons. That such a bias exists but too strongly in the minds of many, perhaps most, country gentlemen, on certain subjects connected with their habitual amusements, is a matter of sufficient notoriety. The arbitrary committals which take place under the Game-laws can leave no doubt on this head. This is a subject upon which, as our author remarks, "country gentlemen are too often liable to passion or prejudice; and where they are intrusted as in England with wielding the power of criminal justice in those very matters where they are most likely to be excited." "It may

be added," he observes in another place, "that, very frequently, country gentlemen who are applied to for the committal of a prisoner are the persons *least* qualified to form an impartial opinion on the merits of the case on which they are required to determine. If the crime has occurred in their own vicinity, and they are applied to, as being the nearest magistrates, which usually occurs, how difficult is it for them to divest their minds entirely of the private information, the public prejudice, or the just indignation which the near prospect of an atrocious crime so naturally occasions! If the person brought before them is a notorious thief or poacher, how easily may they be induced to believe that he has again had recourse to his old practices, if they are charged against him! If they are ardently attached to country sports, with how much jealousy must they view any alleged cases of depredation on their favourite amusement! Prejudices of this kind are so natural, and so unavoidable, even in minds of the greatest powers, that it is impossible that the English justices should be completely free from them."

There is still a third cause of improper committals, to which our author does not allude, and the influence of which it would be difficult to estimate, although it is, in some places, undoubtedly great. We mean the direct interest which the attorney whom the justices employ must have in unduly increasing them. It is to him a source of profit, and one which is not in general neglected. In a former article of this work, it is stated, on the authority of Mr. Wilmot, one of the justices of the peace for the county of Warwick, "that the clerks to the public police-office at Birmingham, who are three in number, receive, on an average, £5,000 per annum (by others the amount is estimated at half that sum) for their services in criminal prosecutions. Of this emolument, a part accrues to them in their capacity of *prosecutors*, which character they are permitted to assume in cases which come before that office." When the large proportion of persons sent to the assizes from Birmingham, and of whom a considerable number are generally discharged, had excited attention, the magistrates declared that, "large as the number of commitments was, they did not commit *one-tenth* of the prisoners who were brought before them." To what extent this may be carried, it appears difficult to determine; but it is one of the common consequences of employing persons who are not previously qualified for the discharge of their duties. In these cases, their performance is generally suffered, through indolence, to devolve on such as manage to convert it into a source of gain.

We have now mentioned the reasons which would induce us to believe, *à priori*, that under the English system of judicial duties administered by an unpaid and irresponsible magistracy, improper committals must frequently take place, and conse-

quently a considerable mass of useless suffering be continually inflicted upon the lower classes. We now subjoin a tabular statement of the committals and convictions in England and Wales, for fourteen years previous to 1823, by the inspection of which, it will appear that our reasonings are fully supported by the facts.

**GENERAL STATEMENT OF THE NUMBER OF PERSONS COMMITTED FOR CRIMINAL OFFENCES IN ENGLAND  
AND WALES, from the Year 1810 to 1823 inclusive, specifying the Numbers convicted, acquitted, or not  
prosecuted, &c.**

	1810	1811	1812	1813	1814	1815	1816	1817	1818	1819	1820	1821	1822	1823.
	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons	No. of Persons
Committed for Trial	5,146	5,337	6,576	7,164	6,390	7,818	9,091	13,932	13,567	14,254	13,710	13,115	12,241	12,263
Convicted.....	3,158	3,163	3,913	4,422	4,025	4,883	5,797	9,056	8,958	9,510	9,318	8,788	8,209	8,204
Acquitted.....	1,130	1,234	1,494	1,451	1,373	1,648	1,884	2,678	2,622	2,635	2,511	2,501	2,340	2,480
No Bills found, and not prose- cuted .....	858	940	1,169	1,291	992	1,287	1,410	2,178	1,987	2,109	1,881	1,826	1,684	1,579
Total of Acquit- tals, no Bills found, & Non- Prosecutions ..	1,988	2,174	2,663	2,742	2,365	2,935	3,294	4,876	4,609	4,944	4,392	4,327	4,032	4,059



From the foregoing document it appears that for fourteen years preceding 1823 the average number of committals for England and Wales was 10,036; and the number of the acquittals, no bills found, and non-prosecutions, 3,514: or, in other words, that nearly 3,514 persons out of 10,036 have annually suffered imprisonment, who ought not to have been imprisoned at all. If the average of the last seven years be taken, the amount of the committals will be found to be 13,240, and that of the acquittals, no bills found, and non-prosecutions, 4,437. It is obvious, therefore, that the number of persons who have suffered unmerited imprisonment before their case has been considered by the grand or petty jury, amount annually to about one-third of the whole committals, a phenomenon which is sufficiently explained by the circumstance of those committals having been made, in the majority of instances, by the unpaid provincial magistracy. It will be easily conceived how much unnecessary suffering is thus occasioned, and how much moral contamination is the inevitable result.

It ought here to be remarked that, as the returns to which we have had access do not distinguish between the cases in which the grand jury have found no bill, and those in which prosecutions have been dropped, it is impossible to decide with accuracy upon the extent of judicial incapacity exercised in making the committals, but the number of prosecutions abandoned would be found to bear but a small proportion to the latter. That relinquishment, indeed, of criminal prosecutions already commenced, which, conjointly with many other causes, tends to render the operation of justice in England so vacillating and uncertain, could not and would not take place under a rational system of procedure.

The method of administering criminal justice in Scotland differs, as our readers know, from that pursued in England. The features by which it is principally distinguished are, the existence of a public prosecutor for the kingdom, assisted by inferior officers; and the establishment, in every county, of professional and responsible functionaries, by whom the preliminary stages, or precognitions, as they are called, are generally conducted. In some cases these investigations are concluded, previously to committal, by the local unpaid magistracy, as in England; but our author observes that, in almost every instance in which this has happened, some formality has been overlooked, or some error committed, which it is found afterwards very difficult to remedy; and, as may be supposed, the number of persons improperly committed is, in these cases, much greater. The good sense, however, of the local magistracy generally dictates to them the propriety of allowing these duties

to be performed by the persons legally appointed for the purpose. Besides the Court of Justiciary, which forms the supreme criminal tribunal of Scotland, and by which rotatory justice is administered at certain periods of the year, there are established in each county sheriff-courts; and in each town of any consideration a burgh-court. Before these courts are tried the cases of minor delinquency, the prosecutions being forthwith commenced and terminated by a public officer, called the procurator fiscal, who is liable in damages and expenses, in case of improper or groundless prosecution. On the occurrence of an offence of a graver nature, application is made in the first instance to the procurator fiscal for the district or county; the injured party is required to sign a written complaint, and the accused is then committed for further examination; the committing magistrate, as well as the complaining party, being responsible for improper committal. For this purpose the period of imprisonment seldom exceeds a few days; seventeen have been decided to be illegal. The examination of evidence is then conducted by the procurator fiscal, generally before the sheriff-substitute, and reduced to writing. When it is concluded, the magistrate before whom this stage has been conducted, is required instantly to decide whether or not sufficient grounds appear to exist for bringing the accused to trial. If he thinks there are such grounds, a warrant is immediately granted; if not, the prisoner is released. The warrant being granted, the accused may then apply for bail, the committing magistrate being allowed twenty-four hours to determine on theailable or unailable nature of the offence, and on the amount of bail to be required. The accused being committed for trial, the written evidence, or precognition, is now transmitted to Edinburgh, in order that it may be determined whether or not the trial shall proceed. It is there submitted to the advocate-depute for the circuit where the crime has arisen, who, if he conceives that no sufficient reasons exist for proceeding farther, directs the prisoner to be immediately released, the injured party having it still in his power, if he thinks proper, to prosecute at his own instance, along with the lord-advocate. If the crown-counsel, however, thinks that there exist sufficient grounds for prosecution, he immediately directs the accused to be detained for trial, prepares the indictment, and *himself* conducts the prosecution at the next circuit. Should it appear to him that the case belongs to an inferior jurisdiction, he remits it to the sheriff, before whom it is immediately decided.

Here, then, is something like responsibility. The person who is to decide upon the sufficiency of the evidence is a professional and salaried officer, resident in Edinburgh, and acquainted with the existing state of the law. He is himself obliged invariably

to conduct the trial, and is, therefore, more careful in the investigation of evidence than a mere unskilled local magistrate, unpaid for his services, and dividing with the grand jury whatever portion of responsibility may exist.

‘ The crown-counsel are paid by fixed salaries, and have no interest whatever in increasing the number of prosecutions. By so doing, they augment their own trouble without adding any thing to their emolument. If they decline to prosecute when there is good evidence, their professional character suffers an irreparable injury by the successful prosecution of the offence at the instance of the injured party. To decline to prosecute in such a case would be to proclaim their own imbecility in despairing of evidence, which one of their brethren, with inferior advantages, has brought to a successful issue.’

As, in the case of the unpaid English magistracy, the non-existence or imperfect application of the pleasurable and painful sanctions would have led us to suppose, *à priori*, that their functions were negligently and inefficiently performed ; a supposition which is confirmed, as we have seen, by the actual state of the facts ; so, on the part of the Scottish magistracy, to whom those sanctions are more effectually applied, we might naturally expect to find greater diligence and attention. To show how far, in this case also, we are supported by experience, we shall extract the following statement from the “ Remarks on Scottish Criminal Justice.”

‘ In Scotland there have been no returns hitherto published of the number of *committals*, in order to compare them with the convictions ; but the numbers brought to trial in the Court of Justiciary and circuit courts, for the last three years, have stood as follows:—

	1821	1822	1823	Total.
Tried .....	270	282	269	821
Convicted .....	250	239	228	717
Acquitted .....	20	43	41	104

‘ Average of persons tried annually, for three years ending 1823 ..... 273  
Of these were convicted ..... 239  
Acquitted ..... 35

‘ That is, the acquittals are to the convictions, in Scotland, as 35 to 239, or as 1 to 7 nearly. Whereas, in England, the acquittals by the panel, or petit juries, are to the convictions, as 4,437 is to 8,863 [here the author takes the average of the seven years preceding 1823], or as 1 to 2 nearly.’

We have already mentioned the manner in which the criminal cases are transmitted to Edinburgh for the consideration of the crown-counsel. The following is a statement of the cases transmitted, and their result, during the three years preceding 1823 ;—



	1821	1822	1823	Total.
Cases transmitted for opinion of Crown counsel .....	646	601	521	1768
Cases in which the accused, after being committed, are ordered to be liberated immediately, from defect of evidence	109	140	136	385
Remitted to inferior judge, and tried immediately before him .....	145	132	136	413
Indicted in Court of Justiciary, or Circuits	273	202	173	648
Cases where all the accused are ultimately acquitted .....	32	23	21	76

Average of Cases annually transmitted to Edinburgh ..... 589

Liberated immediately, from defect of evidence ..... 128

Remitted immediately for trial before inferior judge ..... 137

Indicted in Court of Justiciary, or Circuits ..... 216

Where all the prisoners were ultimately acquitted ..... 25

‘ Out of 589 cases annually transmitted for the consideration of the public prosecutors, *only twenty-five terminate in all the accused being acquitted*; that is, the cases in which persons who must all be considered as *innocent* have suffered lengthened imprisonment is only *one twenty-third* of the total number detained in gaol for trial by the Crown-counsel. Whereas, under the English system, the acquittals amount to *one-third* of the committals; that is, one-third of the persons committed have unjustly suffered imprisonment previous to their case being considered by the panel or petit jury.’

Now, without attributing perfection to Scottish criminal institutions, it must be admitted, we think, that there exists, in this department, a striking difference in the results between the English and Scottish systems. It is somewhat difficult to believe that there is any thing inherent in the nature of those who are born on the north of the Tweed, which should render them more capable of investigating evidence, than those who are born to the south of that river; and the difference in the results must be attributed to the existence of professional skill, coupled with undivided responsibility, and publicity of conduct, in the one case, and the absence, or imperfect existence of these circumstances in the other, an explanation which sufficiently solves the difficulty.

The difference in the results, great as it is, is not, according to our author, nearly so striking as it would be, were the rules of evidence and the mode of conducting trials in Scotland the same as in England.

‘ Of the persons acquitted in our courts, *at least one-half* escape from technical niceties, or rules of evidence which give advantage to the prisoner, with which, in the other part of the island, they are wholly unacquainted. If prisoners in Scotland were liable to be convicted by the evidence of a single witness, were not furnished with copies of their indictments and lists of witnesses, had not the benefit of being

able to secure a complete security from prosecution for the offence by accidental errors by county-sheriff-officers in summoning the witnesses, or in the return or execution of such summonses, were denied the benefit of counsel in addressing the Jury, and were placed, in other respects, in the same situation with panels in England; there is not one-third of those who now escape who would be acquitted. If the average of convictions to acquittals under the Scotch system be as seven to one, we are quite certain, that under the English mode of trial, it would be *at least* fifteen to one. But the English proportion of convictions to acquittals, on an average of the last seven years, both in London and in the counties, is as fifteen to ten. Therefore, if the mode of trial were the same in both countries, the convictions here, out of an equal number of trials, would be *ten times as great as in England*, or in other words, the number of persons who are improperly, or on insufficient evidence, brought to trial, is *one-tenth*, under the Scotch, of what it would be under the English system.'

In the observations which we have made in a former part of this article on the virtual irresponsibility of the unpaid English magistracy, we have contented ourselves with indicating the more obvious causes of their negligence. These would appear to be as follows :

First, that general want of control which accompanies the performance of unpaid duties, and of which the reasons are natural and obvious. When a man undertakes to discharge, without any pecuniary recompense, duties of a laborious nature, the public are not disposed in general to scrutinize closely the manner of performance, or to advert with severity to his errors or remissness. On the contrary, they are apt to give him credit for disinterestedness and public spirit. It may happen, and it frequently does happen, that the duties in question may be so badly performed, as, though unpaid, to cost in reality more than if discharged by salaried and responsible functionaries; and that the office itself is only retained, because it is a source of importance or patronage. These things, however, the world does not consider, but, as usual, looks at matters on the romantic side.

Secondly, the difficulty, odium, and expense which must attend any attempt on the part of a poor man to obtain legal redress for improper imprisonment from his superiors; and which, in fact, to persons in that class, amounts to actual denial of justice.

And, Thirdly, the want of a proper tribunal to which appeal might be made in those cases.

We might, however, have added other causes which contribute to encourage the negligent committals made by the unpaid English magistracy, and which are noticed by the author of the "Remarks." We mean the division of responsibility, which arises from the method in which criminal law is conducted in England. Responsibility, we must remember, although a

powerful instrument when *single*, is weakened, like most useful checks, when divided.

‘The law of England divides the consideration of the grounds against a prisoner, among many different parties, the private prosecutor, the magistrate committing, and the grand Jury. Equitable as this system appears in theory, it leads, in practice, to a division of the responsibility which operates most grievously against the prisoner. The prosecutor devolves upon the magistrate the consideration of the grounds against the accused, and gives himself no further trouble about the matter: the magistrate, knowing that a grand Jury must consider the case, is less solicitous about the examination of the evidence, when he commits for trial; the grand jury not being charged with proving the guilt of the prisoner at the trial, do not bestow that minute investigation upon it, which the counsel does, by whom the whole responsibility of the imprisonment and prosecution must be borne. Thus, without supposing that any of the parties actually neglect their duty, there is a general shifting of the burden of responsibility and the labour of investigation from one to another, which produces that great proportion of acquittals to convictions which obtains in the English practice. Whereas, the principle of the Scotch criminal system, that, after the case has been prepared and judged of, by the local magistrate, who is generally a professional person, it shall be immediately submitted to the counsel who is *to conduct the prosecution*, affords the best security that could be devised for its early and minute consideration, and produces that great proportion of convictions to acquittals which form that honourable characteristic of the Scottish criminal practice.’

We have confined our remarks, in the course of this article, to the manner in which committals are made by the unpaid magistracy, and have endeavoured to show that their disproportionate number, as compared with that of the convictions, arises principally from their incapacity and negligence; the former occasioned by the want of professional skill, and the latter resulting from their virtual irresponsibility. We have not alluded to the statutory power of transportation which they exercise at the quarter-sessions; but if they be unfit to conduct the preliminary stages of criminal procedure, where their errors may be subsequently corrected, still less ought they to be allowed to pronounce a sentence of transportation which cannot be reviewed by any superior tribunal. They are, as our author observes, “the same men when they sit as magistrates signing warrants of committal, as when they officiate at the quarter-sessions, with the powers of transportation in their hands.”

This, however, forms another question: in the mean time, we trust enough has been said to prove that there can be little economy in employing, at so great an expense of individual suffering and demoralization, a set of men, who, if we are to judge from experience, seem to be in general as little qualified to discharge the duties of magistrates, as they are that of legislators.



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- ART. 1.—1. *Corn and Currency, in an Address to the Landlords.* By Sir James Graham, (of Netherby,) Bart. M.P.
2. *Letters on Agricultural Protection, and Currency.* By the Right Hon. Lord Stourton.
3. *Price of Corn, and Wages of Labour ; with Observations upon Dr. Smith's, Mr. Ricardo's, and Mr. Malthus's, Doctrines upon these subjects ; and an Attempt at an Exposition of the Fluctuation of the Price of Corn, during the last Thirty Years.* By Sir Edward West, late Fellow of University College, and Author of an Essay on the Application of Capital to Land.
4. *The Political Primer ; or, Road to Public Honour.*
5. *A Letter to the Earl of Liverpool, on the Cause of the present Embarrassment and Distress, and the Measures necessary for our Effectual Relief.* By C. C. Western, Esq. M.P.
6. *Letters to Lord John Russell, upon the Original Formation of the House of Commons.* By Thomas Creevy, Esq.

THE productions which we have placed at the head of this article bring before us almost every particular in the present state of the nation. It has, therefore, appeared to us, that we shall gain something in condensation, and still more in the order and coherence of our ideas, if we take for our subject the state of the nation as a whole, and advert to the conclusions and arguments of the several pamphlets, as they may be suggested to us in pursuing the train of our own reflections.

*Le present est gros de l'avenir.* This profound remark of a celebrated philosopher, and sage observer of human affairs, we

may translate into the corresponding maxim, "that the present is the child of the past."

This nation has enjoyed, if it can be called enjoyment, some years of peace since the termination of one of the most wasteful wars that ever nation waged, since nations existed on the earth : a war not begun in self defence, for where were we attacked ? a war not begun for conquest, for we had no desire to add to our territory : a war, then, for what ? A war against ideas ! Whose ideas ? The supposed, the imputed ideas of a part of the population of a neighbouring nation.

A war, the most wasteful and destructive recorded in the annals of time, waged against certain ideas of a certain part of the population of a neighbouring country, is a parent, the novelty in the nature of which may well account for something curious in the nature of the progeny.

The parent must be a little more minutely described. A neighbouring nation set about the reform of its government, under an opinion, very generally diffused, not only in that nation but throughout Europe, that a reform was very much wanted in it. In the progress of the work of reform, the people of the country were found to differ widely in their ideas of the sort of reform that would answer best. Not to detain ourselves with all the minute differences, which were many, we may say, generally, that the said people were divided into two grand classes ; that of those who called for extensive changes ; and that of those who wished, at the utmost, for very little change. The two parties gradually became violent, and after a time proceeded to blows ; in other words, the country fell into a civil war. This is a state of great calamity. It has seldom happened in a civil war, that the two parties have not become highly inflamed, and ready to inflict atrocities upon one another. This, though certainly not to any unusual degree, was the case with the parties in France.

After the lapse of some time, and it was a considerable time, it became apparent that the party demanding extensive changes, and which had gone on, as commonly happens, demanding changes more and more extensive, as the quarrel proceeded (men's ideas become exaggerated when they are in a heat) would prove the stronger. Then it was, and not till then, that the government of Great Britain struck in, and took part in the civil war of France ; struck in to prevent the success of the party demanding extensive changes, and give the victory to the party which (its ideas also becoming exaggerated in the struggle) was at last for resisting every change.

It may be asked, and assuredly it is a natural question, what

concern had we in the changes, whether small or great, which a foreign people might introduce into their government; or what business had we to insist that the majority of such a people (the greater strength in such cases naturally implies the greater number) should please us rather than themselves, in the form of their institutions?

The question was not put in those terms to the British people. They were not asked, whether they wished success to the party in France opposed to change; and if so, whether they would go to war to prevent them from being overcome. Much less were they asked, whether they would go to war to compel the people of France to please them with their institutions rather than themselves. They were told that the party in France which aimed at extensive changes had horrid ideas.

Interesting will be the chapter which the philosophical historian will hereafter write, when he collects together and describes the artifices which were employed to persuade the people of England that they ought to go to war against horrid ideas.

But horrid ideas! What had we to do with the horrid ideas of the people of France? If they were horrid with respect to themselves, that is, calculated to bring horrid consequences on themselves, they soon would have had experience for their instructress, and to her lessons we safely might have left them. Oh, but they were horrid also with respect to us! That is serious. Permit us to ask, in what way? The people of France did not breathe fire and sword against us. It was not in that form that their ideas were horrid with respect to us. They had no ideas of invading England, and exterminating her people.

No, but the people of England would have adopted the horrid ideas of the people of France, and the horrid things which would have resulted from those ideas in France, would have resulted from them here. Ah, that was the case, was it? That being the danger, we must look at it nearer, and examine it a little more minutely.

The party desiring extensive changes in France had ideas calculated to bring horrid consequences upon themselves, calculated also to be adopted by the people of England, and to bring like horrid consequences upon them. This was the theory! And certainly a more remarkable theory was never propounded to the world. The practical consequence, pressed upon the people of England, was, if possible, still more wonderful. They were called upon to go to war against a set of ideas,



for fear lest they themselves should adopt them; to go to war against ideas, because they were calculated to bring horrid consequences upon whosoever adopted them; and they, believing this already, as the ground why they should go to war, were also made to believe that it was necessary to go to war to prevent themselves from adopting those ideas; to prevent themselves from adopting ideas, which they were already persuaded, to so intense a degree, were unfit for adoption.

This is a curious item to be found in the state of a nation; and having been an item in the state of this nation at so recent a period, must have an intimate connexion with much of what it is now our purpose to expound.

No such monstrous case of gulling, no such inordinate swallow of delusion, we verily believe, is to be found in the history of civilized man.

Foreigners who visit England are very apt to say of our dear country, *Ma foi, c'est le pays le plus aristocratique de l'Europe*. Here we have a cause which will account satisfactorily for many phenomena.

The party demanding extensive changes in France, demanded, among other things, the extinction of those privileges of the aristocratical class, by which that class were enabled to perpetuate bad government for their own advantage. These ideas were horrid, no doubt, to the aristocratical class in England. What deserves profound consideration is, the degree to which they persuaded the rest of the people that they were horrid to them, and the ways and means by which they brought about that extraordinary persuasion.

It is a signal manifestation of their mighty power. First of all, they possessed the privilege, up to that time but little encroached upon, of setting the opinions of the people. In opinions, as in other things, the ambition of the lower sort has been, to follow the example of the higher. In the next place, they had the instruments of noise to a great degree in their own hands; the means of filling the ears of the nation so constantly with the din of their own opinions, as almost to exclude the hearing of any other. "Give me," says Addison, in one of the *Spectators*, "the power of stating every day without contradiction, to a man at his breakfast, any opinion for a sufficient length of time, and I shall make sure of having his belief in the long run."

The contagion of the passions is another power of which the aristocracy availed themselves on that occasion to an astonishing degree. How naturally one man becomes inflamed by another, needs no illustration. How much more naturally and strongly we catch the passions of those to whom we look up,

than of those upon whom we look down, is also matter of certain experience. The aristocratical class, on that occasion, were agitated with real fears; they used every sort of artifice, many theatrical, many far less justifiable, to act still more tragic fears than they felt. The great players found in the people a sympathetic, far too sympathetic, audience.

Wielding all the powers of government, having all the punishments and all the rewards of the state at command, they were able, after they had gotten the passions of the people a little on their side, to silence all contradiction. Of the men who addressed, or were capable of addressing, the public, by far the greater number were on their side, part from sympathy, part because they saw it greatly for their interest. Against those who would have opened the eyes of the people, they had the instrument of punishment, in tremendous power. With a law such as ours, prosecution itself, tormenting, harassing, ruinous by the expense whatever the result, and the result itself almost always uncertain whatever the case, is despotism in the hands of the aristocracy, or the ministry, its organ. Every artifice of delusion employed on the one side, the means of exposing the delusion denied on the other, what wonder is it that the people were dragged, if not willing, yet unresisting, victims to the sacrifice, passing through the fire to Moloch, and feeding the fire which burned them with their substance!

A war of such length, of such desperate prodigality, waste, and destruction, waged for the sole purpose of quieting aristocratical fears, and consolidating aristocratical dominion, was the parent of a numerous family.

First of all, it left, as a distinguishing ingredient in the state of the nation, an intense jealousy of popular privileges. Every proposal for giving the people, not power, for that is not the proper name for it, but security against being treated as powerless victims at the mercy of an aristocracy wielding, as they pleased, the powers of government, was treated as a crime; and the man who had the imprudence to make it, was marked out for persecution, the persecution at any rate of scorn, and indignation, and abuse; the persecution of society and opinion. He was a man to be shunned, a man not only to be hindered from rising, but to be thrust down. The countenance of authority was turned against him, and all who courted authority, all who claimed alliance with it, or wished for the reputation of having alliance with it, all who, from blind or base imitation, were incited to follow its example, let loose the tongue of reproach, and shook the hand of enmity in his face. He was not an object for good offices, he was an object for all the ill offices which could render

his situation, as an advocate of the people, painful to him and degrading.

Of course the current of our legislation ran in the same direction. Intense was the anxiety to strengthen the bulwarks of aristocratical power, and to exclude the people, as effectually as they had always been excluded, from any share in the management of their own affairs, from any the smallest power of hindering the aristocracy from managing the affairs of the community as they pleased, in other words, from doing as much for themselves at the expense of others as the nature of the case would permit.

As far as regarded the direct powers of legislation, there was not the smallest difficulty. The people had never had a share more than nominal in them. And a motion for such a reform of the legislature as would give them any thing more, was only an occasion for heaping contumely upon the people, and the man who spoke for them. On this subject, of course, there was no anxiety. But a new power had risen, that of public opinion. The legislating class did not well understand it; but they guessed that it boded them no good. The strength of their endeavours therefore was directed against it. Every thing was done to crush public opinion. Law after law was enacted to punish assemblies of the people, and to prevent the expression of their opinions in large bodies. Law after law was passed to restrict the liberty of the press, to render the dissemination of opinions in general difficult and costly, the dissemination of some opinions, those called dangerous, that is, unfavourable to the monopoly of power in the hands of a particular class, in a high degree penal.

Next of the articles left us by the war carried on for the purpose of quieting aristocratical fears and consolidating aristocratic dominion, we may notice the increase of the national debt.

Money raised by loan, and spent in war, is the destruction of so much of the national capital; the destruction, therefore, of so much of the means of national production, that is, of the means of paying taxes, at the very time that there is imposed upon the nation the burthen of new taxes to the amount of the interest of such debt: it acts therefore with double oppression, the oppression of the new tax, and the oppression of diminished means.

It is not, in general, sufficiently considered to what an extent an expensive government is a bad government; not merely when it trenches upon the national capital, and cuts off so much of the means of annual production, but when it absorbs too much of the annual produce, and harasses the people with taxes.



The whole of the mischief does not consist in the degree to which it robs the people of the fruits of their labour and capital, and deprives them of the enjoyments for which they have laboured and cared. An enormous mass of evil is further generated, in the misdirection which taxes force upon national industry, in the impediments to improvement in the various manufacturing processes with which the taxes interfere, and the destruction of the means of adding annually to the national capital, and increasing the wealth and prosperity of the nation.

Even this is far from being the whole of the dismal account. The moral evils are still more, perhaps, to be deprecated. A vast amount of taxes raised upon the people supposes a great amount of persons who live upon the taxes. Of all classes of men, in any country, the most noxious is that of those who live upon the labour of others, without rendering them an equivalent. This includes the whole race of evil-doers in the nation; robbers, thieves, and cheats of every description. Of all dispositions of mind that can be generated in a nation, the most noxious by far is that of desiring to live upon the labour of others. This is increased to the greatest degree by extravagant taxation. Not only does extravagant taxation increase enormously the number of those who live noxiously upon the labour of others, but, in addition to every person who does so live, it raises up two or three who expect so to live, who are striving to be placed in that situation, and who, of course, have the disposition in full perfection.

Reflect upon another circumstance which dreadfully increases the amount of this evil. It is well known that the leading class in every country, the class most remarkable for power and wealth, give the tone to the rest of the community. It is a matter of ambition to imitate them, and a source of honourable distinction to resemble them. Their opinions are the esteemed opinions, their manners are the elegant manners, and their maxims of conduct the refined morality.

Those who have observed the workings of human nature upon the greater as well as the smaller scale, are well aware of this most important fact, that every class or combination of men have a strong propensity to get up a system of morality for themselves, that is, conformable to their own interests; in other words, to urge upon other men, as good, such lines of conduct as are good for them; as evil, such as are evil for them, whether good or evil to other people. Thus, the first of virtues in a family of servants is, to conceal from the master the faults of one another; and a tale-bearer is among them the most opprobrious of all designations. We should feel great pleasure,

and we should render great service, in fully illustrating this important phenomenon of human nature ; but, on the present occasion we must take the fact for granted, only referring those of our readers who wish to render themselves more familiar with it, to a work which, to this purpose at least, is highly instructive, that of Helvetius, "*De l'Esprit.*"

The aristocracy of each country feel this propensity not less strongly than any other class, and have much greater advantage for giving it extensive effect. The consequence is, what every one would expect to find, that the morality in every country is to a great degree aristocratical morality ; in other words, that among the maxims laid down and approved for the classification of actions as good and bad, as right and wrong, there are many by which actions are received into the class of good, solely or chiefly because they are good for the aristocracy, though not good for the rest of the community ; into the class of evil, solely or chiefly because they are evil for the aristocracy, though not for the rest of the community. As the truth of this proposition cannot be disputed, we shall not occupy any of the space which is too limited for other more immediate objects of this article, with the illustration of it, which we recommend to each of our readers to follow out for himself. To a student in Ethics, few exercises will prove more useful than that of culling out the parts of the system of English morality which rest solely or chiefly upon their usefulness to the aristocracy, and distinguishing them from those which are founded on a more comprehensive and generous scheme of good.

Of course, of those who live upon the taxes, in an over-taxed country, the greater proportion by far belong to the class who legislate and who impose the taxes. This, at any rate in this country, is the aristocratical class. Of those who live upon the labour of others without rendering them an equivalent, by far the greater proportion, therefore, belong to the aristocracy. It follows, that the disposition of so living, that most immoral of all dispositions, the real origin of almost all the crimes which infest human society, exists in the aristocracy to a degree far greater than that in which it exists in any other class in the community. The aristocracy get up a morality to favour this propensity, and this interest. Among them the thing does not pass for wicked and shameful. It is treated as an excellent part of the wisdom of the world. Their example and approbation give countenance and encouragement to the propensity ; and the disposition to live upon the labour of others is diffused throughout the community. The moral sense of the nation is perverted ; the distinction between what is right and what is

wrong, in one of the great departments of human action, is lost, and the horror of crime is almost wholly extinguished. In vain the aristocracy endeavour to distinguish the cases in which the disposition to live upon the labour of others is useful to themselves though hurtful to others, from those in which it is hurtful to them in common with others; and endeavour to make a crime of the one without making a crime of the other; to make a crime of robbing the people by unlicensed, no crime of robbing them by licensed, imposture. They do not succeed. Profitable imposture ceases to be opprobrious. The nation becomes a nation of swindlers; and nothing hinders them from being as generally thieves and robbers, but the greater risk to which these vices expose the practitioners. It is demonstratively certain that an over-taxed country must be an immoral country.

Assuredly among the items in the state of this country may be enumerated, as standing in the first rank, prodigal expensiveness on the part of the government; and consequent upon this, and inseparable from it, the vice, in the aristocratical class, of living upon the labour of others. An enormous enhancement of both evils we owe to the war waged against the horrid ideas of the leading party in France, the war for quieting aristocratical apprehensions, and consolidating aristocratical power. During that war the substance of the people was lavished on the aristocracy, in a manner which had no parallel in this or in any other country. The practice became a habit on both sides; the habit on the one part of receiving the public money; and the habit, the no less fatal habit, on the other, of submitting to be deprived of it. When the war ceased, the expenditure went on; and it is perfectly amazing to see how small is the difference between the burthens of the people during the most expensive of all wars, and the peace by which it was succeeded. Enormous fleets and armies during the war paved the way for enormous establishments during peace; the nation was inured to such a state—the aristocracy to hold the lucrative posts, and the people to pay the expense. The connection between cause and effect is here abundantly obvious; but suppose that our interpretation is challenged; what can be said? That it is not the aristocracy, but the ministry, to whom the blame of such expenditure belongs? If this be asserted by any person, he must be able to tell us distinctly what inducement a ministry can have for adopting this mischievous policy; and it is plain he can render but one account: the ministry make a large expenditure in order to make partisans.

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do you not? To this our objector must of course reply in the affirmative. The ministers, because the creatures of the aristocracy, make an extravagant expenditure, that the aristocracy may profit by it; and this he calls an expenditure not made by the aristocracy.

So much for that grand item in the state of this country, the enormous expense of the government, and the morals which it tends to engender. We must hasten to other topics.

The fluctuations which have attended the enterprises of industry, have been a remarkable feature in the period which has intervened since the termination of the war. One season of distress has followed another, each involving a great portion of the population, and some grand division of the national industry, from that to the present time. It would be an inquiry of length, and of some difficulty, accurately to assign the causes of all that disorder which has afflicted the productive classes of the community, and impaired the efficacy of their powers and endeavours. No one can be mistaken in assigning all that is peculiar in it to the position in which we were placed by the monster of a war, at last destroyed, and the errors of legislation by which it had been accompanied and followed. The position, as a commercial people, in which we were placed by the war, is too complicated a subject to be unfolded here. One thing will easily be understood to have had an extensive operation, that it was savagely, and, for a commercial nation, insanely, a war upon the commercial intercourse of the world. Short-sighted aristocrats! Little did you know, when you boasted of giving England, by your vigour, as you called it, the monopoly of the world's commerce, that is of extinguishing the commerce of other nations, in the magnitude of which commerce, not in its destruction, England of all countries, as the most commercial, most peculiarly found her interest, that you were preparing the greatest calamities for your country, insuring the return of a season when the guides of commerce would be unable to see their way, and when calamitous suspension, or hazardous speculation, would be the only alternations. Alas, we have drunk of both these cups, to the bitter dregs.

Of the bad legislation which aggravated the evils of this bad position, three cases deserve peculiarly to be considered and understood; the alterations in the currency, the corn laws, and the usury law.

At a certain period of the war, to meet a pressure upon the Bank of England, the legislature came to the resolution of enabling it to suspend payments in cash, in other words, to



issue its notes without the obligation of paying them on demand. This the legislature did, in profound ignorance of the consequences, and under the comfortable feeling of being entirely practical, without one ray of that foresight which theory would have bestowed. The measure was intended to be very temporary. A practical legislature did not foresee that payments once suspended, would not be very easily resumed. The suspension continued, and the legislature began shortly to proclaim that vast advantages were derived from it; that it strengthened the nerves of war; and that its services could by no means be dispensed with as long as the war endured. The same legislature, however, at the same time proclaimed its design of destroying this mighty instrument of good at the end of the war; though, why depreciation of the currency should produce good in war, not in peace, practical legislature never explained.

First, by depreciation of the currency the legislature disturbed all pecuniary contracts, and altered the price of all commodities one way; producing all the loss, all the disorder, all the uncertainty which necessarily result from such an operation.

Secondly, by raising the value of the currency to its ancient standard, it again disturbed all pecuniary contracts, and altered the price of all commodities another way, producing similar loss, disorder, and uncertainty: it rendered a state of fluctuation habitual in the pecuniary transactions of the nation, and nourished a spirit nearly allied to gambling in those who desired to make their profit amid the agitations of commerce, and ventured for a prize in the lottery of profit and loss. We are now but slowly recovering from a terrible crisis, which that spirit contributed mainly to produce.

In excluding foreign corn, the object of the legislature, which essentially consists of landlords, was to keep the price of corn high. The laws for this purpose have had the intended effect only since the peace of 1815. Up to the year 1793 this country was an exporting country: the war placed the trade in corn, as it did other trades, on a footing peculiar to itself. In the mischievous revulsions which we have experienced since the termination of the war, the share of the corn laws has been most important. Their tendency to renew such calamities in endless succession no man of reflection can fail to perceive.

That they have a tendency to produce enormous fluctuations in the value of corn is seen and lamented, even by the persons who are most eager to preserve them.

The period of low prices is a period of calamity to the growers of corn. The period of high prices is a period of calamity to the consumers. To see-saw between these two horrible con-

ditions, with one half of our population always in misery, is a grand item in the present state of the nation ; and one of the blessings which we owe to a practical and landholding legislature.

All the calamities which arise from fluctuations in commerce and manufactures are heightened enormously by the operation of the corn laws. When the price of corn is high, there is a forced exportation of British commodities. When the price of corn is low, there is a forced importation of foreign commodities. The connexion here between cause and effect is obvious. When we import foreign corn we must pay for it in commodities ; our manufactories are called into increased exertion ; manufacturers augment their establishments, employ an augmented number of hands, and retain a larger stock for the supply of an extended market. This state of things having lasted for a few years, another state comes round. Price of corn falls ; we cease to import ; possibly we export ; the whole of that demand for our manufactures which was created by our importations ceases, and perhaps something more ; stagnation ensues ; the price of manufactured commodities falls ; increased establishments become useless, and the expense bestowed upon them is lost ; while hands are thrown out of employment, wages fall, and bankruptcy and starvation are the lot of the manufacturing population.

That the high price of corn produced by the corn laws is a tax upon the rest of the community for the benefit of the receivers of rent and the receivers of tithe, exclusively, and that it exists only to make them richer, the rest of the community poorer, has been so often and familiarly proved, that we may here take it for granted. A tax, however, of this description, though a curious item in the state of a country which pretends to be well governed, is too familiar to the people of England to excite any peculiar indignation. It has, further, been often shown, that the corn laws extract from the people much more than they bestow upon the landlords. The mode in which this effect is produced will be explained in a subsequent article. Even this, however, is far from being a peculiarity of the bread tax. It does not carry this atrocity to a length which can be compared with the taxes for the support of extravagant fleets, and armies, and colonies. There the benefit to the aristocracy, for whose benefit solely their extravagance is maintained, is often not one hundredth part of the cost to the people. A regiment of soldiers, for example, is good for the aristocracy only by its colonelcies and majorities, but it is bad for the people in the whole cost of the regiment, men and horses,

which is many times as great. Ships of war are good for the aristocracy only in the admiralships and captainships; but the cost of every ship to the people is enormous. Colonies are good for the aristocracy only in the governorships, and other places they afford; the cost of colonies is always atrocious. To make good things in sufficient abundance for the aristocracy in fleets, and armies, and colonies, the minister, it is evident, must put the nation to a ruinous expense; witness that under which we labour. By far the best mode of feeding the aristocracy would be by pensions. The minister should have a licence to give pensions, almost at his pleasure, to the aristocracy, provided he kept them out of all those employments which give them an interest in enormous establishments. If, instead of regiments, and ships, and colonies, he were to give them pensions to twice the amount of what they can derive from the regiments, the ships, and the colonies, we should be gainers to a prodigious amount. In such a case we should be sure to have no more of any of those things than would be really good for us. Feeding the aristocracy, as we do now, under a veil of imposture, we are sure to have much more than is good for us. In feeding the aristocracy in the direct way, by pensions, the people would lose no more than what the aristocracy would receive. In feeding them through enormous establishments the people lose infinitely more.

Beside the laws regarding currency and corn, we mentioned the usury laws as a third case of the bad legislation by which the evils of a bad position were aggravated. We have seen in what manner the laws affecting the currency and the trade in corn have tended to introduce fluctuations in commerce, producing alternate periods of high confidence and deep depression. When the depression comes, and demand is contracted, prices fall, and loss is sustained unavoidably; but prices will fall, less or more, and the loss will be more or less severe according to circumstances. If the merchants can find the means of meeting their pecuniary engagements without crowding their goods into a falling market, they prevent any considerable fall, and lose little more than interest till the glut is expended. If they cannot find the means of meeting their pecuniary engagements without hurrying their goods to an unseasonable market, many of them lose enormously, and many are ruined; a panic seizes the commercial world; payment of debts is demanded with eagerness; loans are refused, or scantily given, and the evils of fluctuation are carried to their greatest excess. The means, on the other hand, of confining those evils within the narrowest limits, are all summed up in the means whereby the merchants



meet their pecuniary engagements without unseasonably parting with their goods.

As if to exemplify bad legislation in its perfection, not only have we had laws to carry fluctuation to excess, but, in addition to them, we have had a law to prohibit the means of best obviating the effects of these fluctuations, and to force up the evils of them to their greatest height. That such is the effect of the usury law it must be a thoroughly ignorant legislature which can still need to be taught. In periods of depression a greater number of merchants than usual need loans, to enable them to keep back their goods from market. Of course the rate of interest rises. The merchant repairs to the monied man, and requests a loan. "No," says the monied man, "you can give me only five per cent interest, such is the law, and I can make more by using my money in another way." Without this wretched law the merchants, in a period of depression, would obtain the means of meeting their engagements to the utmost extent of the disposable funds of the community. Under this law they are, to a great degree, excluded from the means of meeting them. And for whose benefit does this law exist? Why should you inquire? Is it possible that such a law could continue in existence if the landlords did not imagine it were good for them? This is another of the blessings we owe to a landholding legislature.

With a people whose productive powers are so enormous as ours, and where there is so strong a disposition to accumulate property among all the classes of men by whom capital is employed, it would require a still worse legislature than ours to prevent the progress of wealth. Accordingly, we have no doubt that the nation is growing richer. It would have been richer still had not our bad legislation sent a portion of our capital to other countries, where the employment of it was more advantageous. Something more than a beginning has been made in the passage of our capital to other countries; and nothing can hinder it from passing in greater and greater quantities, except either an improvement in our legislation, and a diminution of our burthens, improving the advantages of employing capital here, or a deterioration of the legislation and increase of burthens in all other countries on the globe to which it can possibly migrate. For it is vain now to put trust in that aversion, which was once so strong, of removing from the country of one's birth. The intercourse of nations is upon such a footing, that there is now little strangeness among them. Different countries are hardly separated by such lines as formerly divided the different provinces in the same country. All over the civilized world

men are hastening to become, as it were, different branches of the same family, having fewer points of repulsion, and far more numerous points of attraction.

But, although accumulation is making progress among the capitalists, who are one class of our productive population, and though, under all these disadvantages, they may still be considered prosperous, there are many symptoms of adversity among the other, the far more numerous class, the labouring part of the productive population. We are not among those who think that their condition has greatly deteriorated, because we see no reason to suppose that it ever was good. We can have very little doubt that, in former times, when accumulation was very slow, compared with what it is now, the increase of population pressed as sorely upon the means of employment and subsistence as it does at present. And though the people are now harassed and degraded by parochial officers, unpaid magistrates, and game laws, we can have no doubt that their state of servitude, when lords were still more lordly, and squires still more squirish than they are at present, was, though in another form, even harder and more corrupting than at present.

The remarkable thing in the present day is, that the state of the labouring classes is not improving; does not keep pace with the progress of the times. It is not enough to say lazily and coldly that they have themselves to blame, and that where a given amount of produce is to be divided, and the numbers among whom it is to be divided are too great, the share to each cannot but be small. This is perfectly true; but it is not true that all the blame of making the numbers too great belongs to those who suffer by it. Why are any institutions allowed to exist which have a tendency to augment the evil? Why is not every expedient, which it belongs to wise legislation to devise, adopted to lessen or to prevent it? Are the people incapable of being taught to understand their own interest in a case of such importance as this? The condition of the people is low, and their numbers superabundant, because they are stupid, because no pains have been taken with their understandings, and because a bad morality is propagated through the nation. Why is it not felt by the labouring man to be infamous to live upon the labour of others? If it were so, a numerous brood, sprung from the engendering of a base couple, unable to support them, would be as rare a phenomenon in the immoral world as robbery and murder. But how can it be infamous among the labouring class to live upon the labour of others, while it is the subject of universal competition among the leading classes? The Turkish proverb says, "When a fish stinks it begins at the

head." This is not only most true, but it is likewise true that when the stinking has begun at the head, it certainly goes on to the tail.

Still the progress of civilization has not been without its influence on the lower classes. In manners, in all the little moralities of daily intercourse, there is, even within the memory of men still living, a prodigious amelioration. There is a gentleness and civility in their deportment towards one another, not to speak of their superiors, rarely met with a century ago. Riot and drunkenness are greatly diminished. There is also, which cannot be regarded as less than a signal improvement, not only a great diminution, but almost a cessation of the more atrocious crimes. Reading is becoming every day more and more a practice and a habit. Books adapted to their wants and improvement will follow, as the supply follows the demand; and then doubtless we shall have a more prudent and high-minded, as well as a more honest and intelligent population.

But here a most serious consideration occurs. An Irish population, wretched and degraded to the last degree, is pouring into this country. Suppose that we should succeed in implanting that high-toned morality in the minds of our people, whence an English labouring man should feel it as a crime, and a turpitude, more to be shunned than death, to be the means of bringing children into life without the means of maintaining them; what would be the consequence? Such conduct, if left to its own natural effects, would speedily raise the condition of the labourer, and place him in those circumstances of physical well-being which are essential to his existing in a state of intellectual and moral well-being. It can have no such effect if a perpetual influx is permitted of starving Irish. This may be sufficient, and there is the strongest probability that, unchecked, it will be sufficient, to keep wages down to the starving degree, whatever the prudence and morality of the English population. If so, the continued prudence of the English population would have no other effect than gradually to diminish their number, and increase that of the Irish, till our own superior population would be wholly rooted out and supplanted by the Irish, a misfortune with which no other which can be dreaded for this land, is at all to be compared. Here is an evil, against which a wise and beneficent legislature would lose no time in seeking a remedy. If a cordon against the ordinary plague is an expedient measure, a cordon against the most dreadful plague that ever infested human nature cannot be regarded as too much.



We must now touch upon the more extended interests, those in which all other interests are included.

The composition of our legislature, the main spring of government, is pretty nearly the same as it has been for ages. A great majority of it is composed of the landed aristocracy ; and a still greater majority is nominated and sent there by the will of that aristocracy. The consequences hardly need to be pointed out. The resolves of an assembly are the resolves of the majority. A class of men who have the power of speaking in an assembly, but are always out-voted whenever it is the interest of the predominant class to out-vote them, exist in that assembly in one capacity only. They exist in the capacity of advocates, but it is a delusion and mockery to say that they exist in the capacity of legislators. They have no legislating power whatever beyond the influence which they can exercise on the minds of the major class, by their powers of persuasion. This, it is evident, they could exercise as much if they were admitted into the assembly in the capacity of advocates merely. And we are fully persuaded that it would be a great improvement if our House of Commons were made to be in appearance what it is in reality. It is substantially as much an aristocratical, hereditary assembly as the House of Lords. Why continue the farce of election? Let the principal landholders, by hereditary right compose the House of Commons. Only let the other classes of the people have the power of choosing men who, under the name of advocates, shall attend their debates, and have the power both of originating motions, and taking part in discussions. The operation of the machinery would then appear without disguise ; the real authors of every measure would be seen to be the authors ; the business of advocacy would be much better performed ; and all the advantages which at present are derived from the proceedings of the House would, in our opinion, be derived in much greater perfection.

But, steady in its composition as our legislature has been, and steady in the prevalence of those interests which its composition implies, it is subject to influences which deserve the greatest attention. The maxim has long been established, that all government depends upon opinion. And this is universally and rigidly true ; because government is made out of obedience, and obedience rests upon the opinion either of good to be got by the obedience, or evil by the want of it. But there is this difference between the present times and all former times ; that, in former times, governments made and fashioned the opinions of their people nearly as much as they made their laws ; at present,

the people throughout Europe, and especially in England, form opinions to a great degree for themselves, and are every day allowing government less and less of a share in settling what they shall think on any subject. This is a novelty in the state of the times, the force of which existing governments might be expected to undervalue. We find that actually they have hardly any idea of its importance. They are going on as if such a power (a power, in the long-run, destined to overmaster every other power) had no existence.

This power has begun to be felt in the British legislature, which is often puzzled to know what is the matter with it, and what it is that is possessing it. The knowledge that what they do, and what they say in parliament, will come before the public, and that they in parliament have very imperfect means of determining what the public shall think of their proceedings, is an element in the motives of action. It is not a matter of indifference to have or not to have the good opinion of the people of England; but it is a matter of greater importance to one set of people than another. This has produced a great change in the practical workings of the House of Commons; a change amounting, in reality, to a great revolution, and implying the most important consequences.

The ministry are, beyond all comparison, more dependent upon public opinion than the hereditary aristocracy who compose the legislature. This needs very little illustration. They who fill the House of Commons, by regularly nominating themselves and others, are hardly dependent upon the opinion of the public at all, except in the way of sympathy, which they are too high above the public much to feel; or by the prospect of the ultimate loss of power, which is too distant to produce much effect. The state of the ministry, and the amount, as well as the stability, of their power, are deeply affected by the favour or disfavour in which they are held by the nation. The advantage or disadvantage which it gives to their enemies—we mean their enemies at court, of whom they always have abundance—when the voice of the nation is for or against them, is one of the prime elements in their condition. Their influence with their friends, as well as with their enemies, is much greater when the esteem of the public is greater. In fact, nothing can be more different than the position of a popular and an unpopular ministry.

The consequence is remarkable. Formerly the House of Commons was considered the check upon the king's ministers. Now it is the king's ministers who are the check upon the House of Commons. Whoever has contemplated the proceedings in the House during recent years must have observed many

occasions on which it would have gone much greater lengths in evil courses, had it not been withheld by the ministry; and that most of the useful measures which the ministry have promoted, they have promoted not without ill will on the part of the House. This is a change, the effects of which every session of parliament must render more conspicuous. The great makers of the House care little for the people. Why should they? And why should they be retarded in the promotion of their interests by the fear of what the people will think of them? They are more apt to be irritated, than subdued, by the opposition of the public voice. Not so the ministry. They are the conspicuous marks. The mode in which they must answer at the bar of public opinion amounts already to something of a real responsibility; it carries punishment and reward along with it.

One phenomenon of the public mind deserves to be well considered by those who are collecting the signs of the times. During recent years, in the course of which the nature of the composition of the House of Commons has become better understood, and its inherent incompetency to the business of good government has become an opinion more deeply impressed, and more widely diffused, the efforts on the part of the people to procure the requisite alterations in the mode of forming the House have almost ceased, and the demand for parliamentary reform is scarcely heard.

What are we to augur from this? Are the wise men of practice satisfied, that the silence of the people is the indifference of the people? Are they fully assured that there is not a spirit collecting, which, like a fixed air, will issue with unexpected force, when the moment of disengagement arrives? What if the people have ceased to importune the legislature from something more deep-rooted than the want of prospect of success? Their present repose is rather an indication of confidence than of despair, and of strength, if strength consists in wisdom, rather than of weakness. The people can afford to wait, and they know it. They know that every day adds strength to their cause, and takes it from their enemies. Why should they approach a legislature in which, for years, their appearance was only an occasion of laughter; in which those who dared to ask for them such a share in legislation as their protection required had gradually diminished, till at last there seemed to be not a man who had courage for the enterprise? Yes; the people must wait the birth of events. The womb of time will not be found barren. The petitions of the people for reform of parliament will not be met with laughter by-and-by. Scurril



jesters will not exclude grave consideration upon the subject, when a few more years have gone over our heads. In the mean time, it is not the less discreditable to those who assume the character of advocates for the people in parliament to have become silent from pusillanimity, or, which is still worse, the force of sympathy with those among whom they are placed.

In Literature and Education, the most remarkable feature of the present times is their diffusion. This is of immense importance. Literature and education become valuable in a national point of view, only as they are diffused. That a few men in a nation, or some one narrow class, should be very learned, has seldom much effect upon the happiness of the community. Sometimes it has a bad effect; by enabling the few more perfectly to enthrall the many. But when the knowledge of useful things becomes general among the people, the knowledge of what is useful in politics, and good in morals, as well as the knowledge of those powers of the natural world which can be rendered subservient to their advantage, it is impossible that their condition should not be improved in every way; impossible that the vices of government, which are seen through and hated, should not be removed; that the mental qualities which are known to be the foundation of happiness, should not be cultivated, and that a sound intellect and high morality should not characterize the nation. Toward this diffusion in England a great commencement has been made. The rising generation are almost all taught to read. This is the first step. Knowledge gains access to the mind through books. The next step is, to make the proper provision of good books. And, afterwards, all that remains is, to put in operation the best means for facilitating the access of the people to such books; of placing them within their reach, and exciting the desire to peruse them, and to profit by them. Every thing is in the highest degree encouraging in the signs of the times. The mechanics' Institutes, which have been erected in many parts of the country, and are still rapidly multiplying, have been received in every instance with all the tokens of their being duly appreciated by those for whose benefit they were intended. In a short time we may expect that the inhabitants of the towns, even those of the poorest classes, will all have within their reach the means of much useful instruction. There is considerably greater difficulty in forming satisfactorily the channels of communication with the agricultural population, in placing books within their reach, or in giving them a taste for reading, which is so much stimulated by sympathy and communication with others. However, the example of the towns

always acts upon the country; and with much more rapidity now than heretofore, when the intercourse between the inhabitants of town and country was so little, compared with what it is. The accommodations for reading and instruction, which will exist in the towns that are situated in the agricultural districts, may be partaken of by those of the agricultural population who are in the immediate vicinity, who will spread the taste to a circle beyond them; and, when the demand for books comes to exist, it will suggest the means of supply. There are few parishes in which there is not some central spot, in which a reading-room, and a small library of useful books, might not be resorted to without inconvenience by most of the inhabitants. In all the more populous villages something, even on a larger scale, might be provided. In few districts, too, in England, will it be found that there is not resident some individual or individuals, both qualified and disposed to render important aid in making those little establishments as useful as possible. In fact, we are persuaded, that when the thing is begun it will go on with rapidity.

The great difficulty in such establishments is with religion; because in respect to religious books there is a total diversity of opinion. What one man likes, another detests. This is a troublesome source of discord. It would, in our opinion, be useful if those establishments were regarded as having to do with that instruction only, which is subservient to the happiness of this life: leaving that instruction which is important with respect to the future life to be derived through channels appropriated to itself; channels which the zealous individuals concerned in the diffusion of that instruction have been so much before-hand with those whose object is instruction for the present life in opening and employing.

Not only the circumstances favourable to the diffusion of useful knowledge among the lower classes are an important ingredient in the present state of this nation, another case of diffusion, the highest and the most important of all, presents a prospect, which we trust we may number among the constituents, and the cheering constituents, of our present situation. The value of the middle classes of this country, their growing numbers and importance, are acknowledged by all. These classes have long been spoken of, and not grudgingly by their superiors themselves, as the glory of England; as that which alone has given to us our eminence among nations; as that portion of our people to whom every thing that is good among us may with certainty be traced. Surprising it is, that, notwithstanding this value, so acknowledged, it remained for those who projected

the University of London, to take the first steps towards affording to those classes the means of education in the higher departments of learning ; the first steps for effectually diffusing among them those kinds of knowledge, which are, indeed, most difficult of attainment, but the most potent to bestow the grand faculty of judging soundly of all the circumstances and combinations of circumstances which affect the happiness and prosperity of the individual, the family, and the state. Surely the understandings of that portion of the people to whom we owe almost every thing which understanding has done for this nation, and to whom we must look for all the great products of mind in time to come, should be trained to the greatest perfection in our power. London affords a field of singular importance. There is an aggregate of persons of the middle rank collected in one spot in London, the like to which exists in no other spot on the surface of the earth. It is deplorable to consider how defective an education has been provided for the children of this vast and unspeakably important portion of our population ; and how completely the years and the expense which would have sufficed for accomplishing a highly perfect education have been wasted in acquiring hardly one idea, or one faculty which can be useful to them as men and as citizens, beyond the acquirements now common to the lowest of the people, of reading, writing, and accounts. An aversion to reading is a much more common effect of their education, than a taste for it ; and a taste for any reading which implies a serious exercise of the understanding, and can yield it any discipline and improvement, is one of the rarest and most unaccountable of accidents.

To supply this great desideratum, an Institution, such as the projected University, is the very object desired. Without entering here into the details of the plan, which our space will not permit, and which may have more or less of excellence according to circumstances, one thing is certain, that it can stand upon its merits only ; its existence will depend upon the satisfaction it affords, and it is only a high degree of approbation that will draw to it that resort of pupils, in which its prosperity must consist. It must, therefore, act under the strongest motives to perform the business of education well. It will have no ties to withhold it from changing a less important for a more important mode of instruction ; and the business of education may be confidently expected to improve in its hands.

It is not at all surprising that old establishments of education, possessed of a monopoly, should regard with a jealous



eye the designs of interlopers. They will soon, we doubt not, perceive that, whatever the interlopers take from them, they will replace with interest. Ease and dignity are two good things : but utility and dignity are two better. There is no doubt, if the new Institution answer to its design, that it will render the idea of a much more perfect education, than has been exemplified in this country before, familiar to the nation. It will then be impossible that Oxford and Cambridge should not improve themselves up to the demand of the nation. But, surely, this will be no calamity to them. Though old monopolies, and, above all, monopolies of influence over the mind, are not a favourable soil for the higher moralities, and tend strongly to generate incurable selfishness, we doubt not that both Oxford and Cambridge possess in their bosoms men of generous feelings, to whom a great loss of ease, for a great acquisition of utility, would not appear a thing to be deprecated. The class of men whom these two establishments have hitherto educated, they will continue to educate, if they do not remain too far, which they have no occasion to do, behind the point of perfection attained by other institutions. The London population, to whom primarily the University of London will be useful, will be rescued, not from Oxford and Cambridge, but from themselves ; from that misemployment of time which young men without a guide are so apt to fall into.

Beside the stronger symptoms exhibited by the country, some of the discussions and opinions which recently have been brought forward yield useful indications of the state of the public mind.

We know nothing, in this respect, more worthy of examination than the Equitable Adjustment which has justly excited an extraordinary degree of attention. The proposition, under all the disguises which it puts on, is one and simple, that the contract with the national creditor shall not be kept, and that we shall pay him less than we bargained to pay him. Between individual and individual, this would no doubt be reckoned a very shameful proposition ; as it is upon the observance of a rule directly the reverse, that all the happiness of human society is built. Destroy confidence in men's engagements, and society exists no longer. Confidence in engagements is the cement which makes an aggregate of human beings to differ from a rope of sand.

Had this proposition met with a favourable reception from the nation, we should have thought it a fearful prognostic ; and our estimate of the progress made by the people in intellect and morality would have had to sustain a very serious reduction. We have been saved from this mortification, and a high con-

firmation it is of the opinion we entertain of our fellow countrymen. The numerous newspapers in town and country, the sentiments of which are so carefully adapted to the taste of their readers and may therefore be taken as a pretty good index of their state of mind, have been, with hardly an exception, loud in their condemnation of this immoral proposition, and have proclaimed the value of inviolate faith and justice.

The whole glory of this proposition belongs to the class who hold the lands, and the powers of legislation. It is a singular proof to what a degree, even in this country, the continued exercise of power demoralizes the man. From no class but the landlord class could such a proposition have come in the present day ; because they are the only class whom the possession of power has taught habitually to consider their interest as morality, what is inconvenient to them as vice. If morality and intellect be the grand blessings of man, what advantage would the landlords of this country derive from a radical reform in parliament !

One of the tracts of which the titles stand at the head of this article holds a conspicuous place among the endeavours which have been made to show the propriety of robbing the public creditor. It is the work of a young landlord of great promise, and of amiable qualities ; for the immorality which is generated in men, as a body, by the possession of power, and makes them act badly in their public capacity, does not necessarily adhere to them in their private relations, and in that respect any imputation upon landlords in general would be wholly unjust.

Sir James Graham is for carrying the remedy to the full extent of relief to the landlords. He proposes to deduct as much as he thinks convenient from the interest due to two classes of men ; those who have lent their money to the state, and those who have lent it individually to the landlords. He proposes that about two thirds only of their due shall be paid to all annuitants upon the treasury and the land ; or, in other words, that 30 per cent shall be deducted in the payments hereafter to be made to them. This is, in other words, cancelling about one third of the debt of the government and of the landlords. But why should the landlords and the government have the privilege of contracting debts without paying ? For one reason, and one reason only, that it is for the interest of landlords.

Neither is this a new thing to landlords. It would be wonderful if it were. They have long provided themselves the benefit of a law, by which their property is protected from the claims of their creditors.

Sir James Graham supports the proposition of the landlords,

by a long and not very sapient disquisition on the currency ; in which, after the very perfect exposition he gave of the principle of rent, we expected to find a more accurate discrimination of truth from error. In all that can be said about the currency, nothing is material to the question but the two alterations in its value ; first, from a higher to a lower ; secondly, from a lower to a higher, value. The first alteration followed the suspension of cash payments in 1797. Paper was issued in such quantity, as materially to reduce the value of the currency. In 1797 the nation had a great debt, all contracted when the currency was of full value. When the value of the currency was reduced, the interest of this debt was paid in the degraded currency. So far the national creditor was defrauded. He got less than his due. Was any proposition heard from the landholding and legislating class to make up the difference to the national creditor ? Not one. No one's inconvenience touches them but their own. All depositaries of power are the same. 'This is the strong man's morality all over the earth.

During the period of the depreciation, a great amount of new debt was contracted. This was contracted in the depreciated currency. When the value of the currency was raised by the return to cash payments, the interest of this debt was paid in a currency more valuable than that in which the loans were advanced. " On this account," say the landlords, " 30 per cent should be deducted from the interest of the national debt."

But, first of all, if we make from the last portion of the debt a deduction equal to the increased value of the currency, we shall, of course, perform a similar act of justice with regard to the former part, which, during the whole period of depreciation, received less interest than ought to have been paid for it. The amount of what we should have to pay in that case, has been accurately computed by Mr. Mushet, and the result exhibited in a set of very valuable Tables. The fact is, that the annuity we should have to pay in perpetuity to the first set of creditors, as an equivalent for their loss, would be greater than the annual deduction which could be made from the annuities of the second class. The creditors, taken as a whole, have a demand upon the nation for loss, on account of changes in the currency. The nation has no demand upon them on account of over-payment.

There is another view of the case, which will be of great importance as often as equity and morality are deemed elements in the calculation. The loans which were made during the period of depreciation, were made by open competition, and of course were as favourable to the government as the circumstances of



the times, all taken together, would permit. If any of the favourable circumstances had been taken away, the terms of the loans would have been less favourable. If any had been added they would have been more.

During the whole time of these loans, it was the law of England, by an express act of parliament, not considered as words without a meaning, not regarded as a case of legislative fraud, but an enactment of the highest importance, that payments in cash should be resumed six months after the termination of the war. Unquestionably this resumption was as much a part of the terms of each of those loans, as the amount of stock which was to be given for the money advanced. It is false, therefore, glaringly false, to say that the holders of such stock are not entitled to the payment of their interest in the reformed currency. They are entitled to it. It was part of their bargain.

The attempts to give this "equitable adjustment," as they are pleased to call it, a show of equity, failing totally, it stands in its true colours, an act of bare spoliation. Some of the highest names in parliament have implicitly confessed as much. It was an event, they said, greatly to be deprecated; it was to be avoided, if possible; but then necessity has no law except its own; and they pedantically quoted the law jargon of *nemo tenetur ad impossibile*.

There is in this language a singular union of folly and atrocity. An act of confiscation, more extensive than was almost ever perpetrated by the injustice of hostile factions in the fury of a civil war, is proposed to be founded, in a state of profound tranquillity, on an assumption, the absurdity of which may be made visible to a child.

At the present moment the annual produce of the country, leaving out the portion unavoidably consumed by the labourer, is divided, in certain proportions, among the landlords, the capitalists, and the national creditors. Can there ever be an impossibility of so dividing it? Can less than the due share ever be given to one of those classes, to any other end, than to enrich the other two at that one's expense?

Impossibility! When, in common justice, is this plea held valid on the part of a private debtor? Only when the whole of his property transferred to his creditors will not pay his debts. To allege impossibility, then, on the part of the people of England, is the most impudent of all pretences.

Impossibility! Is that plea to be listened to on the part of a debtor who is all the time rioting in boundless extravagance? Oh, no! Before the people of England will think of the impossibility of paying their debts, they will cut off every atom of

wasteful expenditure, and apply to their discharge the last penny of public property. All sinecure places must be abolished. All overpaid places must be retrenched. All extravagant establishments must be reduced. Army, navy, ordnance, all must come down to a fraction of what they are. What a breaking up of the resources of the aristocracy! Why, all that they pay to the national creditor is a trifle to what they must relinquish, in such a reform as this, a reform which must take place before we dare articulate the word, Impossibility. Even then, we should not be at the end of our resources. There is, first of all, the crown lands, which should be sold to the last acre, and the last brick. Next we shall be able to do, and much better than we do now, with a far less costly ecclesiastical establishment; and the whole of the tythes and church-lands may be rendered available to the discharge of the national debt. Even "the decent splendor of royalty" must part with some feathers to avert the calamity of a national bankruptcy. We therefore believe we have said enough on the subject of impossibility.

It may be thought a work of supererogation to talk of the want of foresight on the part of the landholding and legislating class. Desire blinds the understanding in men less corrupted by power than they are. Yet there is something so incredibly foolish in their setting a great, an almost unparalleled example of disregard for the rights of property, that it is worth dwelling upon for a moment.

There is no man who considers the present state of the government of this country, and the changes which are working in the public mind, who feels not an assurance that important changes at no very distant period will take place in the administration of public affairs. These changes will affect so many potent interests, that it would be too much to expect they can be brought about without something of a struggle. In times of this description, it is of all things the most important that respect to the rights of property should be held an inviolable principle. The insecurity and revolutions of property in times of transit from one state of government to another constitute almost wholly the evil that attends them. The people, the mass of the people of England, are attached to the laws of property; they know their value; and in any change which can be contemplated in this country—for we need but a very easy change if there be any danger to property—it will arise from the aristocracy themselves. If the aristocracy commit an act of confiscation upon a class of their fellow-citizens, they may be assured that it will suggest the idea of another confiscation

when the monopoly of the powers of government is made to quit their hands. And, as far as men who should have committed such an act were concerned, who but would feel his indignation cooled?

There is another case of opinion and discussion, of so much importance that it is with regret we perceive we have left hardly any room for its consideration. A new era with regard to the law has begun. It is not many years ago since an Englishman was treated as a sort of traitor to his country who questioned the goodness of its laws, or of their administration. Already no writings are received with more favour than those which point out defects in both. On no subject, perhaps, is the public mind advancing more rapidly toward the right opinions, than on the legal system of England as a whole. At no distant period that system, we may with full confidence predict, will be seen for what it is, the best preserved piece of barbarism, and the most hideous, that ever was found in any civilized country.

In all countries, the rude, and very often the fraudulent, expedients of barbarous times have been allowed to hold their place in law, after improved modes of thinking have changed almost every thing in all other departments of human action. There are reasons for this, to which we may return on a future day, but which we cannot explain at present. All that, in the mean time, is necessary to be said is, that such reasons have nothing to do with utility, and that old laws are continued in no country because bad laws in existence are preferable to good laws by which they might be replaced. It is, at least, something remarkable, that, of all civilized nations, the English have preserved, to the greatest extent and with the greatest veneration, the wretched laws of a barbarous period. In no great concern, certainly, in the hands of any civilized people, is the adaptation of the means to the end so unspeakably absurd as in the law of England. If the ends of law, the most perfect protection of property and person, be, of all the ends attainable by human ingenuity, the most important, how disgraceful must it be to the legislature of England to have remained to this day with a set of means so utterly inadequate, that they would be perfectly ridiculous, if they were not absolutely atrocious.

The beginnings of better thinking, which have been made on this subject, have reached both the legislature and the profession. The attempts of Mr. Peel deserve the thanks of the nation: the timidity which marks them ought neither to be wondered at nor blamed. It is not possible that Mr. Peel should have familiarized to his mind the ends of law, and the means of accomplishing them; and should hence be aware to



what extent the ends must remain without attainment by the present means. When a man walks in the dark, he walks fearfully of course, especially if he is surrounded by people who are crying out that there are pitfalls around him. Let us give our assistance to Mr. Peel, and believe that his timidity will give other men courage; perhaps, in the end, will give it to himself.

Of the progress of philosophical views of law in the profession, we could mention several striking indications; for some of which we may refer to the Report of the Chancery Commissioners, with its Evidence. But the most important by far is the work of Mr. Humphreys, on the law of Real Property, where great knowledge is exhibited, both of the defects of one of the worst parts of our law, and of the means of remedying them. We destine this work, however, to what it well deserves, an article apart. We shall now, therefore, check the desire which we feel of enlarging upon its merits.

Oh, Ireland! blind would be the man who, making a sketch of the state of England, should overlook thy influence on the fortunes of thy predominant neighbour! It is the knowledge of the impossibility of doing justice to this part of the subject in a sketch, which has induced us to mention it only at the end, and that for little other purpose than to mark our sense of the evil which that country lays upon this. It is, in fact, the great drawback upon the energy and resources of England. It stands the foremost among our mountainous burthens. There is the genuine picture, the *beau idéal* of an aristocratic government. The principle of aristocracy acts there without any disturbing force. In its double form, partly secular, partly ecclesiastical, it seeks from its country that which is good for itself, without any, the smallest, regard of the evils which it brings upon others. A government in England which would not have sympathized with aristocratical abuses in Ireland would have rendered that country unspeakable service, by extinguishing the principle of misrule, by making good laws, and enforcing obedience to them. A government in England thoroughly sympathizing with them has rendered them tenfold more atrocious than they would otherwise have been. Why? Because it has protected them with English bayonets. In the worst of governments the patience of the people can be counted upon only to a certain extent. Had the Irish aristocracy rested on its own strength, it could have carried misrule only as far as the Irish people would bear. Being sure of English soldiers to kill Irish people, whenever it needed to kill them, of course it had no motive to set any limit to its oppressions. Good God! what a tissue of evils! And how one detestable thing grows out of another, and another

out of that, and so on, without end, when the principle of rascality is the *primum mobile* in affairs ! It would go a great way towards the remedy of the evils in Ireland to withdraw entirely the English soldiers, and leave the parties there to settle their quarrels among themselves. A long experience has shown us, that we interfere in them only to exasperate them. Nothing could be lost by this experiment, for it is impossible that the Irish could render themselves more wretched than they are ; and a great deal would be gained to us, for we might disband all the soldiers. We have not the least doubt, that the expedient thing for England would be, at once to dissolve her connexion with Ireland, and to live with her as we live with Sweden or Denmark, as good neighbours only. The commercial intercourse of the two countries would be most important to both. It never could be the interest of Ireland, unless by some very gross misconduct of ours, to join with our enemies in war ; and, if she did, she would add to their dangers, not to ours. But this, we are aware, is idle talk. While the aristocratical government of England remains as it is, so will that of Ireland. That which shall improve the first, can alone be looked to as affording a chance for the improvement of the latter.

ART. II.—1. *Don Esteban, or Memoirs of a Spaniard; written by Himself.* 3 vols. 8vo. London. 1825.

2. *Letter from a Spaniard (the Author of Don Esteban) to the Editor of the Quarterly Review.* London. 1826. pp. 32.

3. *Sandoval; or the Freemason, a Novel. By the Author of Don Esteban.* 3 vols. London. 1826.

THESE novels are the production of an industrious foreigner. Whatever their merits may be, it is an undoubted fact, that they have attained very extensive circulation—a proof in this age of novel-reading, and of novel-writing, that they possess some qualities to recommend them to the attention, and to a certain extent to the favour, of the public.

To the higher attainments of a fictitious narrative, a well-connected plot, a vivid and forcible delineation of character, deep pathos, exquisite humour, or lively description, in a word, to the eminent poetical powers, whether tragical, comical, or descriptive, exhibited in the works of our first-rate novelists, these books can lay no claim. They are little more than a succession of anecdotes, containing some very entertaining description of foreign manners, and not a little information about

recent historical events. The story itself ought to be considered as a supplementary part, while the author's real intent is evidently to give us an idea of the moral and political state of his native country during a highly interesting period of modern history, thus combining the purposes of the writers of travels and of memoirs.

It is a curious symptom of the times, that, while public attention is generally directed to works of practical utility, the numbers of romance and novel writers, and consequently of romance and novel readers, have prodigiously increased. Without stopping to account, as we well might, for this apparent peculiarity, we shall observe, that novels themselves have felt the spirit of the age. They have been made subservient to various purposes. Under the garb of novelists, philosophers have expounded their systems; antiquaries have ushered their researches into the world; travellers have given animation to their description of foreign countries and foreign manners. There is, perhaps, as much veracity in some of our historical novels, as in some works professing to be histories, which have enjoyed great, and under some points of view deserved, reputation.

No book of travels has described Italy better than Madame de Stael's *Corinne*, notwithstanding some blemishes, which, after all, are no greater than can be met with in duller works. What she did for Italy the author of *Don Esteban* has attempted for Spain. We are far from thinking that he has equally succeeded, yet he has added to our fund of information respecting the latter country.

We possess few good descriptions of Spanish manners. Though we were, during the peninsular war, brought into close contact with the Spaniards, no good work was published to give us a correct idea of them. *Bourgoing's "Tableau de l'Espagne,"* and *Laborde's "Itineraire,"* may be pronounced, without hesitation, very superior to all our books of travels over the same ground. Doblado's Letters are certainly very clever and entertaining, but they have been evidently written under the impression of angry feelings; the author (formerly a Spaniard and a Roman Catholic priest, and at present a British subject, and a clergyman of the church of England) pays too minute an attention to religious subjects, and betrays that keen spirit of hostility against the religion and the country which he had abandoned, which is the surest symptom of, as it forms the best apology for, all changes of creed and allegiance.

There appeared in Paris, in 1823, a sort of novel, which the



author of *Don Esteban* has very closely followed. The title of that work is "*Don Alonso; ou l'Espagne*," its object, to give a sketch of Spain and its history during the reign of Charles the 4th and the revolutionary war for the independence of the country against France under Napoleon. The author (M. de Salvandy) had taken a very cursory view of Spain during a hurried residence of a few months. He appears to have industriously collected the loose materials belonging to the history of the period he had in view; which, partly through the proverbial negligence of the Spaniards, partly in consequence of their want of liberty under Ferdinand's absolute rule, and of their want of leisure amidst the agitation which prevailed during the short-lived empire of the constitution, had never been brought together. *Don Alonso* is agreeably written; and possesses, besides, that sort of half-liberal and half-courtly feeling, which is the distinguishing characteristic of many modern French writers. It enjoyed great popularity, though it must be confessed that, both as a novel and as a description of manners, it is liable to many objections. In the former character there is little in it worth recommending, in the latter we may observe with truth, that M. de Salvandy's Spaniards are the Spaniards of romance, and not to be met with in real life. The court circles of Madrid appear to have been the places which he frequented, and they are not likely to afford correct ideas of the Spanish peasantry, or of the lower and middle classes that people the Spanish country towns. The author of *Don Esteban* has entered the lists, evidently furnished with better materials. Of a great part of the scenes which he paints, he seems to have been a witness: we say of a great part, because we do not fall into the deception (if a deception was intended) of considering *Don Esteban* as the real story of a life, where the names only have been disguised. It is easy to trace in his narrative what is founded on ocular, and what on hearsay, evidence, and the former is of course by far the more valuable part of the work. The descriptions of the vintage,\* and of the Romeria,† are very prettily told, and necessarily come from a person familiar with the scenes. In the picture of the Valladolid mob‡ staring at the miraculous apparition in the heavens, and accusing of treason those whose less-gifted sight did not permit them to see the prodigy, we discover—we were almost going to say recognize—the features of the Spanish mobs of that

\* *Don Esteban*, vol. 1, p. 13 to 20.

† *Ibid.* p. 67 to 78.

‡ *Ibid.* vol. 1, p. 158 to 160.

period. In his account of the Guerrilla warfare, there is likewise a good deal of truth, though mixed with such a quantum of exaggeration, as is required to render it romantic and striking. We cannot extend the same praise to his description of the enormities committed by the French soldiery. Something like the affair of the *Valladolid ball* \* did certainly take place in more than one Spanish town; but we more than suspect that the anecdote of the barbarity of the fictitious Dunier† (an evident copy of our colonel Kirke's story, which has since been imputed to different characters) is no less devoid of truth than it is of probability. The same may be affirmed of the scenes at the Inquisition.‡ In fact the Spaniards, with the exception of those who were confined in the dungeons of that tribunal, were as little acquainted with the proceedings of the inquisitors, as foreigners themselves. The name of the Inquisition was itself a sort of bug-bear. It was an old Spanish proverb, that "respecting the king and the Inquisition, it was proper to hold one's tongue."§ The writings of *Puigblanch* and *Llorente* have been the first, and are still the only authorities to be relied upon, in treating of the acts and the forms of proceeding of that horrible institution. In modern times the prisons of the Inquisition have been filled with state criminals, and the trials, though mysterious and dilatory, have been conducted much in the same way as in other Spanish courts. Don Esteban's narrative of his imprisonment and tortures there bears the stamp of one of those tales of horror that are so often found in novels of the German school; nor is his escape by enlisting in the king of Spain's body-guard at all probable. It is an evident contrivance (and we venture to hint, that a better one might have been devised) to introduce us to the interior of the palace of Madrid, under Ferdinand. The anecdotes of this, to say the least, very disgusting personage, are such as were generally current amongst the Spaniards. Part of them may be either exaggerated or false, but they possess an *average* kind of veracity. We allow that the author of Don Esteban was not himself in the palace, and that he may occasionally have fallen into some mistakes about the etiquette of the place; but he certainly has had communication with individuals who were there, and he has given us the opinions and stories generally prevalent amongst them. The novel we examine, as professing to speak of a period when politics were the predominant passion of the country it describes, is strongly impregnated

\* Don Esteban, vol. 1, p. 202 to 206.

† *Ibid.* vol. 2, p. 32 to 54.

‡ *Ibid.* vol. 3, p. 12 to 66.

§ "Con el Rei y la Inquisicion, chiton."

with political feelings, and these too of a class agreeable to the author's assumed character of a Spanish refugee.

It is undoubtedly for this last reason that Don Esteban has been very severely treated by a brother critic :\* the political tendency of the book having, as usual, influenced the judgment of one who entertains contrary opinions. Nor has the chastisement been confined to the novelist, but extended to that class of men whose principles he had embraced, and endeavoured to advocate. The constitutional party of Spain have been called to the critic's bar, there to answer for the faults of one of them. In the accusation we can easily discover the new turn at present given to the arguments against the Spanish "*Liberales*." To praise Ferdinand would be now perfectly ridiculous. The existing despotism of Spain cannot be portrayed in those glowing and amiable colours under which painters of the "*Burke* school" endeavour to conceal the deformities of continental despotisms. The reluctant avowal of the prevalence of *anarchy* under the reign of *legitimacy* is a necessary act for our loyal writers, whenever they undertake to discuss the Spanish affairs of this day. Nor can the empire of the Roman Catholic priesthood, and the burning of heretics, be justified here by the advocates of Protestant ascendancy, since those very excesses are made a weapon of intolerance in these kingdoms, and a defence of religious exclusion. The actual evils of Spain must be confessed, but imputed at the same time to those who did their utmost to avert them. Ferdinand is wrong, nay, somewhat tyrannical; but those are to blame for his acts who publish libels in England against him. To cry down those libels is to perform a real service to the Spaniards, and even to the constitutionalists themselves.

It is, however, singular, that in the act of considering the Spanish novelist as the interpreter of the feelings of his fellow countrymen, now in exile among us, he himself is deprived of the honours of authorship. Whatever guilt there is in Don Esteban belongs to the Spanish *Liberales*, but the merit of having written even a *bad novel* must be denied to one of them. On this particular we might be contented with saying, that we do know it as a fact, that Don Esteban is written by a native Spaniard, having, indeed, made a long residence in this country, and not belonging to those individuals that have been lately driven from their native land, though united to them by kindred feelings and similar opinions. But, were we not aware of this fact, we should find in the work itself sufficient



proofs of its foreign origin. It is generally written in genuine English, yet its style is not cast in a truly English mould. We may say and feel that no Englishman in writing a novel would have fallen into the same manner of expressing his thoughts. Instances occur of English words used in an improper, and that, too, a Spanish, sense. We beg leave to refer our readers to p. 69, vol. i., where the verb *to assist*, is used for *to attend*, visibly because the author had in mind the Spanish verb *asistir*, more akin in sound, and sometimes (though not in the place we quote) in meaning, to the former. Again, in the same volume, p. 136, we find *egotist*, where a selfish man is meant, the author having taken the former word as equal in meaning to the Spanish *egoista*. Were we more at leisure, we could adduce more evidence of the same description, yet these two examples may well answer our purpose, since they are errors which no English writer could have committed.

We shall observe, in addition, that the whole texture of Don Esteban's story, with the recognition of his noble birth at the end, seems to belong to the common plots of the Spanish drama, rather than to the modern taste of our novelists.

But the critic whom we have quoted, relying on his knowledge of the Spanish language, acquired (as he informs us) during half a life-time spent in Spain, accuses Don Esteban of so gross an ignorance of the Castilian tongue, as cannot be conceived in a native Spaniard. We dare, however, to undertake Don Esteban's defence in this particular. We do not feel disposed to say how much of our time we have passed in that country, but we boast of our knowing a little of it, as much at least as is sufficient to induce us to join issue fearlessly with our brother Reviewer on some of his criticisms. The translation of Pedro Botero, we willingly abandon. Botero is evidently an allusion to the pitch with which the Spaniards actually bedew their skin bottles, by them called *botas*, and by us *borrachios*,\* burning pitch being one of the chief

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\* That this is the meaning of Pero Botero may be proved by the fact of the *calderas* (cauldrons or boilers) being the chief of Pero Botero's attributes. In a subsequent criticism [Quarterly Review, No. 68], the same critic has found an origin for Pero Botero which we deem as unfounded as it is far-fetched. "Pedro, or Pero, is a name applied in Spain to many common imaginary beings. Thus *Pedro Fernandez*, is a Mr. Somebody. *Pero Grullada*, or *Verdad de Pero Grullo* (*Truth of Pero Grullo*), likewise one of Quevedo's personages, is a Spanish name for a truism. Besides, St. Peter (in Spanish San Pedro), being amongst the Catholics a sort of governor or keeper of Heaven, Pedro, or Pero Botero (Peter dealing in skin-bottles, *i. e.* full of pitch) is visibly his counterpart, the governor of Hell."

ingredients used in hell, according to the most accurate descriptions of that region, for which we are indebted to several fanciful divines. Don Esteban was misled (as he has since candidly avowed) by his Castilian pronunciation, the mistake of the *v* for *b* being by no means a vulgarism in speech, though it is certainly one in writing. For the same reason we are ready to admit of his apology for the final *z* instead of *d* in *calatayud* an error to be sure, but an error that shows him to be no foreigner. But we do not extend our forbearance to the critic, when he maintains that the Spanish sound of *g* before the vowels *a*, *o*, *u* ought to be called guttural. The sound in question is almost the same as in our English words *garb*, *go*, *goose*, and exactly the same as in French and Italian before the same vowels. The guttural sounds which the Spaniards have inherited from their Arabian ancestors, and for which their language is liable to the accusation of occasional harshness, are those of *g* before *e*, and *i* and of *j* before all vowels. This latter sound our critic, in a subsequent article, which we shall likewise notice, calls aspirated; but he is the only one that ever called it so. We have heard of aspirated *h* but never of aspirated *g*. Nor is the Spanish sound we allude to, exactly like our aspirated *h*, or the French sound of the same consonant in *heros*, *hair*, but much stronger and formed deeper in the throat. At all events, without entering into a prolix disquisition about the formation of sounds, it suffices that common use approves of the acceptation which we, in common with Don Esteban, give to the word guttural.

Neither do we think that the critic is right in his quarrel with Don Esteban about the talents of the Spaniards for improvisation. We are far from saying that the Spanish "repentistas" carry either their abilities, or their pretensions to the same extent as the Italian *improvisatori*. To these latter, improvisation is a serious business, performed with great solemnity, accompanied by music, and leaving no sort of poetical composition, not even the epic and dramatic, unattempted; while to the former it is merely the jocular occupation of convivial meetings, confined to the composition of a few *decimas*, *redondillas*, and *sonetos*. But in their province the Spaniards do undoubtedly excel in this gift, their fine language affording great facilities, instead of presenting peculiar difficulties, to ready versification, since the whole difference between the mechanism of the Italian and Spanish poetry consists in a few, and but a few, more poetical liberties enjoyed by the former, and a consequent superiority in poetical language. The inferiority of the Spaniards to the Italians is not greater in poetical than it

is in prose composition ; nay, it is decidedly less, since lyric and dramatic poetry are the only branches of learning in which there may exist between them something like competition. The good Spanish improvisations stand, therefore, to the Italian in the same proportion as their written poetry. Neither is it true that the custom of extempore composition is quite exploded in Spain, the History of Father Gerund having had no effect on the public taste in this particular. Perhaps, the Quarterly-reviewer has heard of *Arriaza*, a Spanish poet now living, and if he has, we dare say he is acquainted with some of his charming improvisations, amongst which we beg to recommend to him and the public, as a fine specimen of lyrical poetry, a beautiful hymn to the praise of the Spanish revolution of 1820, addressed while sitting at table to a Mr. Onis, on his departure to be the ambassador of constitutional Spain in Naples.

We are afraid to trespass on our readers' indulgence by this protracted discussion, and shall, therefore, proceed to more weighty matters. In his accusation of national pride against the author of *Don Esteban* (a curious charge in the act of maintaining that he is not a Spaniard) our critic has included the whole Spanish nation, and principally the Spanish legislators of 1823, for not having tamely submitted to the Holy Allies, when they first declared their intention to replace it under the yoke of arbitrary power. Now, without absolving the Spaniards from the old imputation of being proud, we may be permitted to say, that from no quarter could the charge come with less grace than from the Quarterly Review, whose pages are constantly exhibiting the grossest specimens of self-complacency and self-adulation. But let Spanish pride be as great as it may, it is false that to it ought to be ascribed the fall of Spanish liberty, chiefly because it is false that the Spanish legislators of 1823 regarded their constitution as "*infinitely superior to all the schemes of government ever devised by man.*" On this point the speeches, and other printed documents of the Cortes relating to the period in question, ought to be consulted. Uninteresting and dull as the task may be, it is still incumbent on those who now discuss the Spanish affairs of that epoch, to read those forgotten documents of a very unfortunate, and we are prepared to say, very calumniated party. Never did the Spanish Orators insist on the absolute perfection of their constitution, though the example was before them of other legislators attempting to defend as perfect some very faulty institutions. They candidly confessed that their constitution might admit of amendment, but they reasonably enough contended that it did not belong to foreign powers to discuss, much less to dictate on the point. They said that they were not authorized



to alter that law which they had sworn to, and on which their title to legislate over the country only rested. They moreover stated, that even in case they should feel inclined to transgress the bounds which the constitution had affixed to their powers, they were not sure of being obeyed while thus acting in opposition to the existing law ; and that it was likely, therefore, that their departure from their duty would create confusion and anarchy, and render French invasion more justifiable, or at least more certain. They further showed that from the whole tenor of the notes of the Allied Powers, from their known conduct in other places, and from a consideration of Ferdinand's character and sentiments, and of the openly avowed intentions of that party with whom the French were acting, and visibly meant to act, it clearly appeared that no changes in the actual constitution were intended, but that pure unalloyed despotism was in preparation for them. They maintained that when all was to be lost by submitting, to resist was the best they could do, since even defeat could not make matters worse than they would be in consequence of ready submission. Impressed with these ideas, they certainly made more than one appeal to national pride, endeavouring thereby to create that enthusiasm which was required to meet the exigencies of so momentous a crisis. Those were their opinions and their acts, and that they were such is a matter that stands on record. Whether their arguments were good or not, is not to our present purpose ; that they were not such as the critic has been pleased to ascribe to them is sufficient to prove the falsity of his accusation.

But why is that accusation made ? Whence comes this anger of the Reviewer against the Spanish constitutionalists ? Their real sin in his eyes, and in the eyes of all who think with him, appears to be, that they did not create an upper house—a peerage. Whether they were right or wrong in so acting, is a subject on which we shall not deliver an opinion, but without either approving or disapproving of their conduct, we shall try to find out the motives by which it was influenced. Perhaps, on examining the list of the recent votes of some upper house in existence they were at a loss to discover the utility of the institution. Perhaps they were startled at the difficulty of ascertaining who are the real Spanish nobility ; who have a lawful claim to be considered as forming it ; a difficulty by no means of easy solution, as is very ably expounded in the preliminary discourse to the rough draft of the Spanish Constitution\* presented to the Cortes in Cadiz, in 1811, by their select

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\* This preliminary discourse is printed, in some of the editions of the *Spanish Constitution*, before the text. We invite those of our readers who understand Spanish, to read it before judging of the constitution itself.

committee. But these are mere conjectures; and a better reason for that *criminal* omission may be found in the consideration of the character and acts of the Spanish grandees. Unfriendly as we are to aristocracy in general, we confess we have reasons to single out the Spanish aristocracy as the objects of our peculiar dislike. They were, to be sure, as turbulent and unruly as the nobility of other countries during the middle ages; but since they were tamed and reduced into subjection by a bold and barefooted friar, cardinal Ximenez, their only character has been that of indolent and cowardly servility; their ambition has never risen higher than to be the servants of the palace. In all the great events that agitated their country, they, as a body, remained a perfect cipher. When the commons of Castille, in 1522, made their gallant stand in defence of their liberties, the grandees first kept aloof from the contest, and at last joined the royal party. They were rewarded by not being called to the faint shadow of the Cortes that was kept in existence till later times, and they submitted without complaint to the indignity. When, during the feeble reign of the idiot Charles 2nd of Spain, the succession of that kingdom became the object of so much anxiety, the grandees not even roused to action by the notorious debility of the royal government, allowed the Spanish crown to be transmitted by a compulsory, perhaps a forged, will, to a neighbouring and a rival house, without stipulating for any securities for their own advantage, which might have been wrested or obtained from their new master during the first years of a contested dominion. When Napoleon, having seized upon the Spanish princes, attempted to ascend to, or to dispose of, the throne of Spain, in virtue of a forced cession of the individuals that were in possession of it, the grandees repaired to Bayonne to pay their court to the new king imposed on the Spanish nation, and it was only to the simultaneous rising of the lower classes that their country was indebted for the preservation of her independence. When Ferdinand, in 1814, repaid the services done him by his subjects, by depriving them of their hardly-earned liberty, the grandees might have interfered between the royal and popular parties, and they would have probably succeeded. At the time when part of the army, in 1820, rose to proclaim the constitution, a period of rather more than two months of anxiety elapsed, during which the absolute royalists and the democrats fought, with alternate chances of success, the grandees being passive spectators of the pending struggle. Lastly, during the short-lived reign of the constitution, most of them joined the cause of the people, and it was to armed crowds of the peasant-

try, instigated by the clergy, that Ferdinand partly owed the restoration of his power, the grandees not having declared against the constitution which they had hitherto followed, until after the occupation of Madrid by the duke of Angoulême. Their influence, if exerted at one of the periods we have quoted, would have been productive, perhaps, of some good to the community, most assuredly of much to themselves. Yet they wanted energy even to promote their own interests, and the consequence was, that they were and still are despised and forgotten. Whenever and wherever the aristocrats have actively interfered in political troubles, they have taken good care to adjudge to themselves the lion's share in the final settlement. For the royal and the popular party to follow their example was, if not the wisest, at least the most natural course, and those who wonder at it must wonder at every page of history.

We think the actual state of Spain to be a convincing proof that it was impossible to establish there such a system of government as would suit the views of Quarterly critics, even supposing, what we are far from doing, that it was the more desirable. The Spanish Cortes of 1823 may be accused, with more or less reason, of faults and errors; but certainly the accusation of not having given to Spain a constitution that had no effective party to support it, not even those who were to derive the principal advantage from it, is, in our humble opinion, the most absurd of all accusations, though repeated in different times and places, from the senate down to the pages of the Quarterly Review.

To confute this accusation, and at the same time to defend himself against the attacks he had undergone, the author of *Don Esteban* addressed a spirited letter to the editor of the last-named publication. We cannot say much in praise of his defence, nor do we approve of the contemptuous tone he adopts against his adversary. To insist on such evident typographical errors as the substitution of *Juan de Mina* for *Juan de Mena* is to make use of the same weapons with which he was unfairly assailed. The Reviewer was wrong; but to tax him with absolute ignorance, is neither just nor prudent. The charge of malice might have been urged against him with more success. There are yet in the defence some passages written with a good deal of energy and truth; such, for instance, as the following one, which we beg to quote as a happy illustration of our preceding remarks. While answering the critic's good-natured defence of the intentions of the French government of granting to Spain "*a political charter under the guarantee of Great Britain* [that only offered it as far as to mediate with the



French government], *and of France* [that positively rejected the said mediation when offered], *giving her more real freedom than the freest of her ancient kingdoms ever thought of.*"

'Was that political charter (he asks) which the critic speaks of, intended for the Spanish nation, or only for the authors and abettors of the constitution? The best proof that the despot of France and his colleagues of the Holy Alliance never meant to give the Spaniards the least political freedom is, that, notwithstanding that the authors and abettors of the constitution are no longer in a state to throw any obstacle to whatever form of government the allies might think proper to establish, some having fallen by the poniard or the axe of their treacherous enemies, others being immured in dungeons, and the rest expatriated; the mass of the Spanish people continue plunged into the horrors of anarchy, and suffering every evil which the most heartless and disgusting despotism can devise. The French government had and has the power to remedy those evils; they have not done it—they do not do it, *ergo* they do not, nor never did intend it. Else why should a whole people suffer for the sins of a handful of men, who no longer possess the power to oppose the designs of the philanthropic monarchs who took upon themselves to work our happiness? for, I suppose, the critic is one of those who believe that the mass of the people of Spain hates the constitution. If the allied despots, in the genuine spirit of despotism, find it impossible in their hearts to forgive those men who happen to have notions different from theirs on such abstract matters as those of government, let them proscribe them from their natal soil for ever, seize their all, or even take their lives away on the scaffold. But in the name of heaven, let them not extend their wrath to millions of innocent beings, who, though they may be supposed incapable of holding any opinions of their own, are nevertheless susceptible of feeling the benefits or evils resulting from a good or a bad government.'—*Letter from a Spaniard to the Editor of the Quarterly Review*, pp. 25, 26.

This appears to us sound and forcible reasoning, and for the honour of our critical profession, we call on our brother Reviewer to confute it with something more than a repetition of his former abuse of the Spanish novelist, and the Spanish liberales. But he dares not—he cannot; and while he does not, his vague accusations are undeserving of further notice, and ought to produce no effect on the candid reader.

On the author of *Don Esteban* they have produced but little; since, instead of being deterred, by what was meant for a chastisement, from renewing his offence, he has given us *Sandoval*, a new novel of a more decided political character than his former, and which has been the occasion of fresh hostilities from his critical enemy.

There exists a considerable difference between *Don Esteban* and *Sandoval*. In the former, politics were but a secondary part; in the latter they are the principal, indeed the only one; since Gabriela's love and the whole of the hero's private history

may be considered as episodical. In the former, fictitious names are said to be affixed to real persons, and the account of real facts; in the latter, almost all the names are real, while many of the facts are of the author's invention. This forms, in our opinion, a weighty objection to Sandoval. In speaking of real, and still more of living individuals, great caution ought to be observed. It is wrong to attribute imaginary motives and still more imaginary actions to the true actors in those important scenes; since those very things which to the novelist appear perfectly natural and praiseworthy, may be viewed by his heroes in a quite contrary light. More than one instance of this occurs in Sandoval, and it is really distressing for some individuals to see themselves described as having thought and acted as they never meant—nay, against their own opinion of what was just and proper, merely because their well-meaning panegyrist chose to paint them in such colours as appeared to him more favourable and suitable to their moral physiognomy.

We wish to be understood to imply no absolute censure of Sandoval by these remarks, forced on us by a due consideration of the character of many deserving and unfortunate individuals, who have nothing left but their honour, and wish to preserve it according to their own ideas of what is honourable. In fact, in Sandoval's details there are many errors, but the main story is perfectly true. In our humble opinion, it redounds very much to the author's praise, that he has given us a lively and highly interesting, and at once an animated and pretty faithful account of that vast conspiracy, provoked and fostered by Ferdinand's misgovernment, protected by that negligence and disorder which are inherent in extreme despotism, and which ended in the overthrow of tyranny. Nor do we find little to praise in some of Sandoval's characters. Father Lobo is a striking likeness of those busy meddling priests that are found interfering in the domestic affairs of many Spanish families, to the utter ruin of their peace and happiness. The military conspirators are likewise well delineated. In the historical part of the narrative there is veracity, particularly in the last volume, where the author follows, and sometimes merely translates several pamphlets on the Spanish revolution of 1820, published by those who had a share in bringing it about, and directing it on its first onset, such as San Miguel and others. On the secret transactions of the conspirators, the author must have written from hearsay, and occasionally drawn on his own invention. About the imperfection of the former evidence, without meaning thereby to impeach the honesty and veracity of those from whom it was collected, little doubt can exist; and in those facts which the author has supposed,

there ought to be, and there visibly is, that quantity of exaggeration which was required to make his tale readable. They are indeed wrong who, relying on Sandoval's statements as to many, undoubted historical authorities, are disposed to charge on the Spanish constitutionalists all those violent sentiments and projects which their eulogist has put in their mouths, to render their meetings more palatable to the English circulating-library reader. Wrong in this respect was the critic of the Quarterly, who, while insisting on Sandoval being, as Don Esteban, the production of a joint-stock company, in which a Spaniard and an English book-maker were the managing directors, kindly enough supposed the whole of the Spanish liberales to be the shareholders, and thought it natural that they should pay for the mismanagement. The novels and the Spanish constitutionalists are very curiously confounded in the loyal writer's sweeping charges. As these charges are mostly repetitions of his former ones, and as he has not condescended to reply to the strong argument by which his defence of the intentions of the French government was confuted, it might appear useless to enter into a new discussion with him. Yet there are points in his second attack, evidently written with far more caution and labour than his first, which seem to require some explanations from those who, like ourselves, though perhaps disagreeing in some particulars from the Spanish liberales, feel interested in the preservation of their character, and in the ultimate triumph of their cause and of their principles.

Our critic is very severe on the author of Sandoval, for having taxed some of the leaders of the actual persecuting Spanish priesthood with downright Atheism. We do not approve of the accusation as made against some real individuals, because, whatever their faults, and we do not hesitate to say their crimes, may be, we possess no evidence to prove that hypocrisy, without the least alloy of fanaticism, is the main spring of their conduct. But that there is a good deal of Atheism in countries ruled by superstition and intolerance is a fact which our critic will not deny. Atheism has been pronounced, by many authors, to have been the predominant religion among the secular and ecclesiastical politicians of Italy in the 16th century. And we have sufficient authorities to prove that there were many Atheists not long ago amongst the Spanish clergy. The reverend *Mr. Blanco White* (an author whose testimony, perhaps, the Quarterly critic will not reject) has lately\* revealed

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\* *Vide* "Practical and Internal Evidence against Catholicism, London, 1826," *passim*. In some other works by the same author, we find the same avowal, or something like it.



the fact, candidly adducing his own example (he has since been converted) in proof of his assertion. But, says our critic, those infidel priests are all on the constitutional side. Indeed! and why so? Suppose that an Atheistical priest should feel some attachment to doctrines and institutions, the falsity and bad tendency of which he perfectly knew, but with which his own private welfare was closely connected; suppose he saw those institutions battered down by bold reformers, what would prevent him from raising the hue and cry in the name of religion against the troublesome disturbers of his comforts? Men generally act according to their interest, whether they believe or disbelieve the existence of a future life. If, then, there are Atheists in Spain of whom it is the interest to support religious abuses; if those abuses were attacked by the Cortes; if the only means to preserve them in existence was to excite religious feelings and passions in their favour; if all these premises are granted, as we think they must be, where is the improbability? let us rather say, how can the prevalence of Atheism, or at least of gross infidelity amongst the violent and apparently bigoted defenders of the Spanish church be denied?

The tenderness of this writer in the Quarterly for those Catholic worthies can only be explained by his hatred towards their antagonists. This hatred is, indeed, apparent, in his sparing no pains to find out matter of accusation against them. Have charges been made by a Spaniard against his countrymen? He seizes upon them: no matter whether the accuser be an *exáltado* or *comunero*—whether the charges are used in a different sense from the critic's meaning—whether they are unsupported by proof—the offspring of private pique—an evident repetition of popular rumour. No; the abuse which would be a calumny when thrown upon Ferdinand, becomes a conclusive argument when directed to some of the Spanish constitutionalists.

This easy belief of whatever tends to the prejudice of the latter is a distinguishing mark of the Reviewer's criticisms. Even the improbable story of the man whom the constitutional soldiers prepared to roast alive escapes the blame of absurdity, to be converted into a ground of criminality. The projects of assassination formed in the freemasons' lodge appear to him as well proved by Sandoval's narrative, as they would be by the production of the records of the lodges themselves.

But it will be objected that it is not on those contested points that the critic's principal charges against the Spanish constitutionalists are founded, but on facts which nobody has attempted to deny—on the existence of those secret associations—on their avowed conspiracy to subvert monarchy as

it existed—on their well-known interference with the acts of the constitutional government—on the wickedness of the means they made use of to further their wicked purposes, such, for instance, as tumult and assassination. By these means it will be and is actually said, the constitution became odious to the Spanish nation in general, and its final overthrow was hailed by that people as the act of their deliverance from the thralldom of popular tyranny, and the scandal of irreligion; and a dislike has been created there against the very name of a constitution which has rendered the establishment of a free charter almost impossible, delaying thereby the only desirable termination of the actual troubles, that is to say, the grant of such a charter by Ferdinand, under the auspices of the French, according to *his* and their original intentions.

In order to dispose of this mass of argument, we think it necessary to premise some observations.

In one of our former Numbers, while reviewing the excellent History of the French Revolution, by Mignet, we have alluded to our ignorance of the true state of affairs, and of the modern history of foreign countries. Akin to that ignorance is our presumption in judging that of which we know but little. It is, indeed, amazing to see how, by the assistance of a few epithets, such as Jacobins, rebels, traitors, miscreants, and so forth, and with a few confused ideas of ferocious mobs, plunder of the church, and destruction of old and sacred rights, we are ready to pass our sentence on men and things, making no allowance for circumstances, no distinction of times and places; involving in the same censure the men of the first national assemblies of France, and those of the Convention; the Cortes of Spain and those of Naples; and ever condemning the friends of the people, with the exception of South America, where liberty has been indebted to covetousness for her escape from condemnation.

Then, by a singular though not uncommon contradiction, we are perpetually boasting of our superiority over our neighbours, and at the same time denying them the propriety of acting according to the different circumstances under which they are placed.

Lastly comes the maxim, that “people living under a despotism are unfit to be trusted with the management of free institutions.” It was said so of France; it has been said so of Spain; it is said so of Greece: the maxim itself is in many respects true. But a most absurd, and though often-refuted, still ever-recurring inference has been drawn from it, and in spite of its absurdity, is daily used and approved of in this thinking nation; that is, that because they are yet unfit to enjoy

freedom, they must be kept in bondage until they acquire those capabilities of which the same bondage is said to deprive them.

Let us now trace the influence of those principles on the subject of our actual discussion. Through our ignorance we are very imperfectly acquainted with facts; our presumption leads us into very erroneous calculations about their causes. We judge of them as if they had taken place among ourselves, and bestow our praise and our blame accordingly, little thinking that those very acts which here might prove injurious to the cause of liberty are in countries differently situated indispensably necessary to its ultimate triumph. Finally, in consequence of such mistaken notions, we pronounce people unworthy to be free, because they employed the only means within their reach to become so; and with that inconsistency to which we last alluded, we condemn them to live in slavery, in order to wait till they are apt to receive a free constitution. To crown the whole, it is pretended that people so situated, must expect the termination of their wretched state of dependence from the very individuals visibly interested in its indefinite continuation.

Our opinions, however, are in direct contradiction to those we have just exposed. We do maintain that in judging of the manners and events of foreign countries great caution is required; that it is proper to have the facts well ascertained, and then to give our sentence with due consideration of the different circumstances of the cases respectively under our view. It is in conformity to this doctrine of ours, that we willingly undertake the defence of practices which we should be the first to condemn where better ones could be adopted; but which we deem both necessary and praiseworthy, where they were the only means to obtain so desirable a result as the destruction of tyranny and the establishment of securities for good government.

People living in this country, where free discussion, in spite of all the obstacles thrown in its way, is carried to a very great extent—where, notwithstanding the law of libel, there is a practical liberty of the press, and public meetings are held by persons unmindful of Manchester massacres—are reasonably enough startled and shocked at the idea of secret societies conspiring to subvert the existing government, and, what is worse, interfering with the course of the new one, after the restoration of liberty. Now, though we are far from approving of such doings, we beg leave to observe, that in Spain they were the effect, not the cause, of the evils which had afflicted that country previously to the late revolution, and which did not cease while the constitution was in force. Conspiracy, with very few exceptions, and those, too, in cases where it generally proves ineffectual



—conspiracy, where it is not the work of a few discontented individuals, but an extensive plan carried on at once in separate places—is a proof, and the unavoidable result, of an existing system of misgovernment. Union and secrecy are the means it employs, and through which it succeeds. But the transition from an absolute to a free government, produced by its success, cannot be effected without strong opposition from the numerous classes that rely for their existence on the abuses attendant on despotism. The new government is therefore weak, and the knowledge of its being so, obliges its partizans to look for some further securities, some additional means of protection, besides those afforded by the regular course of the law. Hence the formation of associations, either public or secret, which is a never-failing symptom of periods of danger and agitation. Where the danger is great (and this was the case in Spain), with a strong party within, and surrounded by powers decidedly hostile to the cause of liberty—after an exceedingly mild revolution, which had left its enemies in possession of immense means which they were constantly employing to do mischief, it is natural for those associations to seek an increase of strength through the medium of secrecy. In cases of more energy, clubs and public societies are preferred, as happened in France during the most perilous and energetic period of her revolution. It only belongs to really strong and popular governments to disdain the use of such auxiliaries. There associations do not exist, or if they do, are undeserving of notice. We hear of no danger accruing to America from the existence of either secret or public societies: Nor are they thought at present dangerous in Great Britain. They have been pronounced mischievous in Ireland, and as such, they have been put down by a special law; but without entering into a discussion about the justice or expediency of their suppression there, we shall observe, that their existence and their influence prove a well-known fact, that Ireland is an agitated and divided, and therefore an ill-governed country.

There is only one sort of conspiracy to which we are decidedly partial. We allude to a conspiracy publicly carried on, with full security of ultimate success, the object of which is the improvement of the human race, and the means the diffusion of sound and universal information. This conspiracy, in spite of present vehement opposition from all those of whom it is the undoubted interest to uphold the abuses which it threatens to destroy, still goes on regularly, not only in England, but even in France, where more obstacles seem to impede its progress. We would gladly substitute it in Spain, for masonic and other conspiracies. But the thing being impossible, because government stands there

to prevent it; we see no other means of success for those who wish well to their country, than to try by all means to get rid of the nuisance. So they did in 1820, and we heartily approve of it: so they ought to do at present. To improve, not to destroy, may be a sound doctrine; yet, taking the expression in its literal sense, we should be glad to know how the noble improvements going forward in London could have been carried into execution without having previously pulled down the wretched hovels and dirty alleys that filled the very site now covered by splendid houses, intersected by elegant streets. To the continued influence of secret societies, which had been used as engines to destroy, after the settlement of the constitution, we certainly object; but we have explained the causes which produced that evil, and there is, besides, some apology to be offered for it. In fact, those associations did some good along with great harm. Let our loyal men bring to mind their loyal associations of 1792, 93, and 94, and let them recollect how far they served their purposes. The Spanish patriots had a similar end in view; they may be excused for having adopted the same means.

But what shall we say about tumults and assassination—the means in our critic's opinion constantly employed by those societies? Can we offer any apology for them? Certainly not: Yet, while condemning them, we must not involve in the guilt those who had no share in the acts. Neither ought we to condemn the whole of the scene in which assassination was a painful incident. A long list of murders disgraced the insurrection of the Spaniards in 1808; still, as it was both a loyal and a patriotic rising, and directed, moreover, against our enemies, it was generally approved by all parties here. Not a single murder stained the restoration of the Spanish constitution in 1820. If, before, the murder of Elio had been in contemplation, we blame those who planned it. Though in common justice it required some more authority than Sandoval's fictitious narrative, to admit the charge of murder, when made against the unfortunate Vidal, who may himself be said to have been murdered.\* But, if we were to grant they were criminal, we ought to make allowances for their situation: for, even dismissing the idea of Elio's treasons, let it be kept in mind, that *they* meant to proclaim the constitution, and that *his* death was the natural consequence of a rising which he would certainly oppose. He would then probably have fallen in the struggle. For those who were to begin the fight to aim the first blow at the head of

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\* Vidal and his fellow sufferers were not legally tried: Elio could not be their judge: the forms of their trial were hurried. Why does not the critic feel for Vidal, a brave man too, as he feels for Elio? Is this his impartiality?

the enemy's general, was an unjustifiable, but still a natural act : and we cannot but pity those who were so situated as to be forced to begin their necessary operations by a crime.

We do not deny that after the irritation produced by the repeated treasons of the *Serviles*, and the scandalous impunity which they enjoyed, there were some murders committed on them of a very odious description : but our abhorrence of those acts ought to be divided between those who perpetrated them, and those who, by their shameless violation of the laws in the absolution of notorious criminals, provoked the popular passions. Even the moral and sober Scotch were roused to madness by the pardon granted to Porteous. And whoever knows the fact, that the very men who were caught in arms leading the military insurrection of the royal guard against the constitution in July 1822 were spared through dilatory proceedings, and are now rioting in the persecution of their former conquerors, cannot doubt that the Spaniards had more than once their patience put to a severe test. They sometimes yielded to the temptation ; and far be it from us to absolve those who did : but neither ought their guilt to be thrown on the generality of their party ; nor was it the act of secret societies, nor was it so often repeated as this critic supposes. Of the list of murders which he brings forward, many have not been proved to fall under the foul description.

But, on the tumults he insists with more reason ; for, with shame we confess it, there really were some riots in Spain during the times of the Constitution ; though not so many, nor so bloody, as those which have taken place in the same country since the establishment of legitimate despotism, nor so violent as those which often occur in better-regulated countries. The funeral procession of Clararrosa might be rather improper, but it was of a peaceful description. There was, we are told, bad singing, but no pelting ; the omission of calling the military to disperse it was certainly great—but then no lives were lost : so there was, upon the whole, compensation. And now we have quoted Clararrosa, we deem it proper to make some observations on the story of that personage, the critic in the *Quarterly*, as he appears to lay great stress on those very unimportant events of a Spanish provincial town during the constitutional period.

Who Clararrosa was has not been exactly ascertained : popular rumour ascribed to him, and to his evidently assumed name, such origin as our critic has supposed. The fact is, that he was the editor of a journal published in Cadiz, very violent in its principles, and very despicable both in matter and style. His journal never rose to any importance, until some ministers were



placed at the head of government at Madrid, who, by their acts, incurred the suspicion of co-operating with Ferdinand, who was known to be constantly plotting, and with foreign and domestic parties, the overthrow of the existing constitution. The suspicion gathered strength from the circumstance of the military command of Cadiz having been intrusted to a notorious Royalist. Cadiz was a place of the greatest importance, both as a fortress and as a town where constitutional feelings were unanimous and vehement. In 1814, one of Ferdinand's first cares, when he dissolved the constitutional government, was, to seize upon Cadiz by despatching there a trusty chief to wrest the place from the hands of the truly respectable individual who then held it. A nearly similar conduct was now pursued; the passions of the inhabitants were therefore strongly excited, Clararrosa spoke boldly, and, as it usually happens in troubled times, the faults of those men he opposed gave him a temporary popularity. But the popular ferment at last subsided; the Cortes interfered by expressing their disapprobation of the ministerial acts that had been the object of so much alarm, and the ministers themselves retraced many of their steps. Yet Clararrosa did not alter his tone, perhaps through fear of having gone too far to recede without danger, perhaps through an ambition which promised him great benefits from the existence of civil discord, perhaps from party zeal; because there really might be some enthusiasm in the man's composition; perhaps, as has been asserted, with the intention of raising his own value, and forwarding, at the same time, the views of those ministers to whom he had made a proffer of his services. Be it as it may, he saw people daily falling from him; and, probably, thinking that the violence of his remaining partizans would be a compensation for their diminished numbers, he tried to excite resistance to the government. He, however, failed; and, by the decision of a jury, according to the laws then in force, was sent to prison; there he was seized with a disease, to which he was habitually subject, and being removed to his own lodgings, in a few days died. The whole story of the schism amongst the *comuneros*, of which he is said to have been the victim, is an absolute falsehood. The *comuneros*, who afterwards became so numerous and strong in Cadiz, were, at the time of Clararrosa's death, very much reduced in point of numbers, and possessed of little influence. There were at that time in Cadiz, four members of the last Cortes, that is to say, the four members elected for the province, who had not yet taken their seats, because their predecessors were still sitting in the *extraordinary* Cortes, the election of new deputies, in the Spanish form of government, taking place before the

dissolution of the existing body. None of those four members, either at the period in question, or before or after, did ever belong to the comuneros; they never signed a declaration of the kind of that which our critic mentions, neither was there at all a declaration of fifty, not even of five comuneros, purporting that they returned within the pale of freemasonry. The whole of the story, as to the encouragement given to Clararrosa, and his abandonment by that society, is grossly false, and meant to cast odious imputations on a few individuals. We are really astonished that the Quarterly-reviewer, while adopting so many calumnious assertions, should have stopped at the accusation of poison. He seems to abandon, on that point, the libellers he has followed in all the rest of his narrative. It is true, that even they themselves durst not go beyond a hint.

The Reviewer's account of Clararrosa's funeral is pretty correct; but he does not say, that in Cadiz, since the prevalence of the epidemic fever in 1800, but little of religious solemnities are observed in funerals, those solemnities being performed at church in presence of the body. If, during half his life-time spent in Spain, our critic has happened to visit Cadiz after the epoch we have just quoted, he must have seen bodies carried to the burying-ground out of the town with no clergy in attendance, as he says is the established custom; with no psalm-singing, the poor heaped together in a covered cart, the rich merely attended by one or two brotherhoods (*hermandades*), the members of which (they do not belong to the clergy), instead of singing the funeral service of the Catholic church, go on muttering *paters* and *aves*. But we do not deny that in Clararrosa's case things were done unwarranted by custom, yet they amounted to no breach of law; little attention was paid to them beyond the precincts of Cadiz, and even there they were soon forgotten.

It is truly a bold assertion that, to scenes like this last mentioned the supposed hatred of the Spaniards against the constitution ought to be attributed. Were it so, the inhabitants of Cadiz should be the foremost in their abhorrence of a government under which such "*deeds of shame*" took place. But it so happens that no town in Spain can be compared to Cadiz, for steadfast, zealous, and almost unanimous devotion to that abolished constitution, and to the cause of liberty in general, a devotion still subsisting, and openly shown in the teeth of the French, who are in possession of that fine and ill-fated city.

But is it, after all, true that the mass of the Spanish nation are averse to a free government? Were we to judge from the outrages to which the constitutionalists are universally and daily subject there, we should not hesitate to decide for the

affirmative. But we are not ignorant that mobs are easily created and excited. By the complaints, which are tantamount to a confession of their enemies, we are informed that the constitutionalists are still numerous and unwilling to renounce their principles. We cannot but observe that no party can be weak and contemptible which requires the presence of a foreign army to keep them down. When a few soldiers in a corner of the Peninsula proclaimed the constitution, their cry was echoed by the whole nation, and the government they called for was soon quietly established: to subvert it was the work of three years of intrigues, of foreign invasion, backed by the moral influence of the whole of continental Europe, of the division created amongst the constitutionalists themselves, partly lured by the promise of another sort of less free, but still free government; partly disheartened by the consideration of the immense force in array against them, and of their own want of means to oppose that force. We see that a French army is still kept in Spain, reduced, indeed, in numbers, but in possession of the most important fortresses, and through this circumstance enabled to command the country; the more so as it is known that French forces would march to their assistance if new troubles and dangers were apprehended.

The best means to solve this question would be, to let Spain alone. In opposition to the *Quarterly Review*, we do maintain that the actual evils of that nation admit of no other remedy. A costly experience of three years time is in favour of our doctrine. What can be expected from Ferdinand and his counselors (and these have been often changed) ought to be now fully known. If there is a country in the world that gives the lie to the absurd dogma of legitimacy, Spain is that country. If the Spaniards are to have a tolerable government, they must make it for themselves.

We are no friends to that political doctrine which professes to examine what are called rights, and the origin of sovereignty. Utility, that is to say the greatest happiness of the greatest number, we consider as the principle which the framers of new systems of policy ought constantly and solely to keep in view. Could we find sufficient securities for good government established—an efficient control of the many over the few—of the people over the rulers, secured by a free concession of those rulers themselves, we would not cavil about the origin, and would be contented to enjoy the practical advantages of the benefit. Unfortunately, the thing, if not impossible, is at least improbable. We never saw the holders of irresponsible power divest themselves of that power for the good of the com-



munity. Even honest prejudices may be supposed to interfere with and prevent such an act of self-denial, since it is possible, nay, it frequently happens to men to feel persuaded that they will and do employ the powers they keep in their hands for the advantage of the governed ; of many of the means of attaining which advantage, they think themselves the best judges. But it is generally to hypocrisy—and hypocrisy, too, of the grossest description—that we ought to ascribe those constant professions by which kings and aristocracies, while they either contend for dominion, or combine to share it when acquired, endeavour to persuade the people into an abandonment of the management of, or the control over their own interests ; creating a belief that those interests will be no less honestly and far more ably attended to by the government than by what is termed the ignorant multitude. But though such deceptions have frequently succeeded, and may, for aught we know, still succeed ; yet people begin to be convinced that it is to their exertions alone that they can be indebted for the establishment of permanent and efficient securities against misrule, or, what is the same, arbitrary sway. That those very exertions have proved abortive in many cases, that the people, in their endeavours to ensure their welfare, have been duped by their leaders, who have converted to their own private advantage that power they were intrusted with for the general good, is a lamentable truth which we are far from denying. Against the recurrence of this evil, the spirit of the age, the diffusion of information, and this, too, of a superior and more philosophical cast, is a sufficient preventive. The people, such as they are now becoming, are the only power that can and must determine the future fate of nations.

But if the general maxim, that it is well to allow the people the management of their own affairs holds good in all cases, it acquires double strength when applied to Spain under existing circumstances. It is true that the Spaniards are not an enlightened nation, but their present government is far behind them. All those who are acquainted with Spanish affairs, know that it is a peculiarity in Ferdinand's character to encourage and stir up opposition against his ostensible government. Those fanatical mobs by whom he is said to be led or awed, are, in fact, excited by himself, or by his court under his private sanction. Yet we are told to look to this man as the only lawful and possible source of improvement for the country doomed to live under his rule ; Spain can derive happiness only from his forbearance. He may be advised to relax in his system of oppression ; but should

he persist in his present courses, he is still to be supported. To keep him on the throne which he disgraces, to perpetuate his misrule, France is permitted to continue in military occupation of Spain under the sanction of all Europe, Great Britain included, and with the approbation of a numerous party amongst us, who leave no sophism untried in order to represent French interference as a blessing to the Spaniards. We have heard much of the danger of withdrawing the French troops from Spain, and leaving that country to herself. There prevails a sort of fashionable cant respecting the risk to which the unhappy constitutionalists would be exposed, were their protectors (for so the French soldiers are styled) to abandon them to the revengeful fury of their enemies. An unusual (shall we say an hypocritical?) feeling of pity for those unfortunate victims of their devotion to the popular cause, seems to reign in those quarters where it ought less to be expected. In order to calm such fears, where they are sincere, or to expose the insincerity of those who appear to entertain them, we shall merely observe, that the French are actually in possession only of those places where the constitutionalists are the strongest party, while over the vast surface of Spain the self-called royalists, or rather *serviles*, are allowed to indulge their greedy appetite for insult, plunder, and murder. Should the French forces evacuate Spain, a civil war might ensue, but the evils of it would not be confined to one party alone, and the probable result would be the establishment of something like a rational government. That this is a "consummation devoutly to be wished" by this country, is, in our humble opinion, an uncontrovertible fact. Unimportant as Spain is at present, she may, in process of time, be rendered a valuable, as she is now a burthensome appendage to France. But even waiving this consideration, the true friends to freedom, those whose bosoms glow with the best sympathies of human nature, who are firmly persuaded that the happiness of one country is eminently conducive to the happiness of its neighbour; who cherish those benevolent principles which begin to be actually in some countries recognized, and which are to a certain extent, acted upon even by the ministry of England, cannot consider the existing condition of Spain, sunk into barbarism, oppressed by despotism and convulsed by anarchy, without strong feelings of sorrow and indignation. Whatever may tend to the overthrow of the present Spanish government is sure to meet with their heartfelt and warm approbation. To endeavour to mitigate the almost universal sentiments of horror with which the tyrant Ferdinand and his satellites, and his auxiliaries are viewed by

the people here, appears in their eyes a most mischievous and hateful occupation. On such works as Don Esteban and Sandoval, they feel disposed to look with indulgence. The moral effect of those works must be at any rate good ; and if they pourtray tyranny in colours of a somewhat blacker dye than its true ones ; if they either reveal or apologize for the irregularities of faction ; even then they convey an important lesson by showing how odious a government must be, whose actions make such exaggeration credible, and how desirable the establishment of those securities, which, by depriving faction of a justifiable pretence, either preclude the possibility of its existence, or render it both abominable and contemptible

ART. III.—*A corrected Report of the Speeches delivered by Mr. Lawrence, as Chairman at two Meetings of Members of the Royal College of Surgeons, held at the Freemasons' Tavern. With an Appendix, containing the Resolutions agreed to at the first Meeting, and some illustrative Documents.* London. Callow and Wilson. 1826.

**T**HE late proceedings of the Royal College of Surgeons have illustrated, by a very neat and decisive experiment, two highly important principles of moral science.

1. The tendency of institutions which confer irresponsible power on the few over the many, to ensure the sacrifice of the general to the particular interests.

2. The effect of public discussion, in counteracting the above-mentioned tendency, in cases where the irresponsible body is not sufficiently powerful, with reference to the whole community, to despise the good opinion of that community.

The consideration of such principles as these cannot fail, we should hope, to excite a deep interest in the reading and thinking part of the community, on account of the light which such discussions throw upon the nature of man, and the consequent tendency which they have to promote his happiness : but upon this occasion the public have a much more profound concern in the regulation of the College of Surgeons, than may at first sight appear. The legislation of the Royal College affects directly, indeed, only the members of that corporation, and those who are desirous of becoming so. But, inasmuch as the advancement of surgery and of the sciences connected with it is confided, in a great measure, to the care of the Royal College, the flesh, and blood, and bones, and viscera of us all are the subjects upon which a mistaken or an iniquitous regulation of that corporation does ultimately exhibit its per-



icious effects. And in this indirect manner it will be found that the laws which are passed in Surgeons' Hall bear as strongly upon the welfare of every individual in the nation, as those which are passed in parliament. It is surprising, too, how much the penal sanctions which are expressed in the Westminster laws resemble those which are implied in the code of Lincoln's-Inn Fields; with this remarkable distinction, that a man may so conduct himself as to avoid incurring the former, whereas no human prudence can escape from the latter. There is, indeed, scarcely a single evil with which a criminal may be visited by the judgment of a court of law, that an honest man may not be made to undergo at the discretion of a surgeon. Thus, by the operation of the College enactments, any man may be mulcted to any amount, or imprisoned for any number of years, or for life, though he have never committed the smallest misdemeanor; he may be subjected to the actual cautery without being convicted of manslaughter; he may be transported beyond the seas, for years or for life, without being guilty of a clergyable felony; and finally may pay the forfeit of his life, though he never dreamed of a capital offence. This is no rhetorical exaggeration; but the simple truth, much less indeed than the whole truth, for the unnecessary torments which may be inflicted by an ignorant surgeon, are not inferior in acuteness to the worst punishments of the most barbarous penal jurisprudence, and far surpass any thing which is tolerated by the law of England.

It behoves every Englishman, therefore, to know what is the constitution of that body which exercises the function of legislation in the College of Surgeons, and what are the practical effects resulting from that constitution.

It appears that, at the close of the last century, the old corporation of Surgeons having been dissolved, a bill was brought into parliament to erect a new corporation, but was thrown out in the upper house. This road to irresponsible power being found impracticable, the royal road was tried next, and with better success, for in the year 1800, king George the third granted a charter to the College, by the name of the Royal College of Surgeons in London. The government of the College, by this charter, is committed to a master, two governors, a court of assistants, consisting of twenty-one, and lastly to a court of examiners, limited, like the decemviri of old, to ten in number; and unlimited, like the same decemviri, in the exercise of an arbitrary discretion. On the 13th of February, 1822, the College obtained another charter from his present majesty, by which the master became the president, the governors became

vice-presidents, and the Court of Assistants became the Council. It is proper to observe, that the president and vice-presidents are a part of the ten examiners, and that the ten examiners are a part of the twenty-one members of the Council. The original charter, after appointing the first officers of the College by name, goes on to provide, as follows, for filling up such vacancies as should occur:—

‘ And we further will, that the master, governors, and assistants, for the time being of the said College, hereby made and established, shall, upon the first Thursday in the month of July next after the date of these our letters patent, or within one month thereafter, and upon the first Thursday in July, in every succeeding year, or within one month thereafter, meet in the place which shall from time to time be used, or appointed, as their hall or council-house, or as near to such hall or council-house as conveniently may be; and then and there elect, choose, and appoint, out of the examiners, by the majority of votes of such of the court of assistants as shall be then present, one person to be principal master, and two other persons to be governors of the said college, for the then succeeding year; and then and there also, in like manner, choose and appoint one or more of our principal serjeant-surgeons, or the surgeon-general of our forces, if not already an examiner or examiners of surgeons of the said College, or otherwise shall choose and appoint out of their own body some other person or persons to be examiner or examiners of surgeons for the same College, in the place and stead of such examiner or examiners as shall have happened to die, or have been removed from the said office of examiner in the then next preceding year, unless such vacancies in the office of master or governor, and in that court, shall have been previously filled up within the then preceding year, which it shall be lawful for the said court of assistants to do, at any special court to be held for that purpose. And also in like manner choose and appoint, out of the members of the said College established by these presents, some person or persons to be of the court of assistants of the said College, in the place of such person or persons who shall have happened to die in, or have been removed from, the said office of one of the court of assistants in the then next preceding year; unless such vacancies in that court shall have been previously filled up within the then preceding year; which it shall be lawful for the said court of assistants to do at a special court to be held for that purpose.’

A speculative observer of human affairs, taking this charter for one datum, and the particular interest of the examiners for another, might, as it seems to us, have deduced the general nature of the regulations which that body would pass, so long as its operations were not disturbed from without, just as a mathematician deduces the third angle of a triangle from his knowledge of the other two. Such a reasoner, however, would have been assailed from all quarters with charges of false and atrocious calumny. We feel, therefore, the full advantage we

enjoy in writing after the fact ; and we form no conjectures as to what projects may have been cherished in the minds of the decemvirs during the early infancy of the College. We believe that it was not till about the year 1813, or 1814, that the spirit and intention, which were afterwards to be embodied in formal and general resolutions, began to display themselves on such particular occasions as were considered favourable. We forbear to enter upon the consideration of these cases, because there is always danger of falling into inaccuracies with respect to the facts, by reason of the natural partiality of those from whom a knowledge of them must be derived ; and we are quite content that the College should be judged not only by its own acts, but by its own representations.

On the 19th of March, 1824, a set of regulations was promulgated by order of the court of examiners, which we shall now exhibit to our readers ; and, as it will be necessary to compare it with two other sets, subsequently promulgated, we have printed them side by side, in order that the points of resemblance and difference, being obvious to the eye, may be more readily or distinctly apprehended by the understanding.

ROYAL COLLEGE OF SUR-  
GEONS.

‘ The Court of Examiners, in pursuance of their duty to promote the cultivation of sound surgical knowledge, and to discountenance practices which have a contrary tendency, have resolved :

‘ That from and after the date hereof,

‘ The only schools of Surgery recognized by the court be London, Dublin, Edinburgh, Glasgow, and Aberdeen.

‘ That certificates of attendance upon the surgical practice of an hospital be not received by the court, unless such hospital be in one of the above recognized schools, and shall contain on an average one hundred patients.

ROYAL COLLEGE OF SUR-  
GEONS.

Court of Examiners.

‘ In pursuance of their duty to promote the cultivation of sound surgical knowledge, and to discountenance practices which have a contrary tendency, the court have adopted the following regulations : That

‘ The only schools of anatomy and surgery recognized by the court be London, Dublin, Edinburgh, Glasgow, and Aberdeen.

‘ That certificates of attendance upon the surgical practice of an hospital be not received by the court, unless such hospital be in one of the above recognized schools, and shall contain on an average one hundred patients.

‘ The Court of Examiners will, however, receive, as testimonials of education, certificates of

ROYAL COLLEGE OF SUR-  
GEONS IN LONDON.

‘ Bye-law, Sect. 16. 51. No person under twenty-two years of age shall be admitted a member of the college.

‘ Standing order,

1. The only schools of anatomy and surgery recognized by the court are, London, Dublin, Edinburgh, Glasgow and Aberdeen.

2. ‘ Certificates of attendance upon the surgical practice of an hospital be not received by the court unless such hospital be in one of the above recognized schools, and shall contain on an average one hundred patients.

‘ The court will, however, receive as testimonials of education, certificates of attendance on



attendance on provincial hospitals, containing one hundred patients under surgical treatment; provided a student shall have previously attended two courses of anatomical lectures and two courses of dissections in any of the recognized schools of anatomy. Yet the Court of Examiners require, that the term of attendance on such provincial hospitals shall be of twice the duration of that required at hospitals in any of the recognized schools of anatomy.

‘And that certificates of attendance at lectures on anatomy, physiology, the theory and practice of surgery, and of the performance of dissections, be not received by the court, except from the appointed professors of anatomy and surgery in the universities of Dublin, Edinburgh, Glasgow, and Aberdeen; or from persons teaching in a school, or acknowledged by the medical establishment of one of the recognized hospitals, or from persons being physicians or surgeons to any of those hospitals.

‘Candidates for the diploma will be required to produce, prior to examination, certificates,

1. ‘Of having been engaged six years, at least, in the acquisition of professional knowledge.

2. ‘Of being twenty-two years of age, and, according to the above resolutions,

3. ‘Of having regularly attended three winter courses, at least, of anatomical lectures; and

provincial hospitals containing respectively one hundred patients: - - -

- - - - - provided a student shall have previously attended two courses of anatomical lectures, and two courses of dissections, in any of the recognized schools of anatomy. But the court - - - - - require that the term of attendance on such provincial hospital shall be of twice the duration of that required at hospitals in any of the recognized schools.

‘And that certificates of attendance at lectures on anatomy, physiology, the theory and practice of surgery, and of the performance of dissections, be not received by the court, except from the appointed professors of anatomy and surgery in the universities of Dublin, Edinburgh, Glasgow, and Aberdeen; or from persons teaching in a school connected with, and accredited by the medical establishment of a recognized hospital, in one of the schools of anatomy, or from persons being physicians or surgeons to any of such hospitals.

‘Candidates for the diploma will be required to produce, prior to examination, certificates, conformably to the above regulation,

1. ‘Of being twenty-two years of age.

2. ‘Of having been engaged six years, at least, in the acquisition of professional knowledge.

3. ‘Of having regularly attended three winter courses, at least, of anatomical lectures; delivered

‘Candidates will, conformably to the above bye-law and standing orders, be required respectively to produce, prior to examination, certificates,

1. ‘Of being twenty-two years of age.

2. ‘Of having been engaged six years, at least, in the acquisition of professional knowledge.

3. ‘Of having regularly attended three winter courses, at least, of lectures on anatomy and

also one or more winter courses of chirurgical lectures.

4. 'Of having performed dissections during two or more winter courses.

5. 'Of having diligently attended during the term of at least one year, the chirurgical practice of an hospital.

at subsequent periods;\* and also one or more winter courses of chirurgical lectures.

4. 'Of having performed dissections during two or more subsequent winter courses.\*

5. 'Of having diligently attended, during the term of at least one year, the chirurgical practice of one of the following hospitals, viz.

'St. Bartholomew, St. Thomas's, the Westminster, Guy's, St. George's, the London and the Middlesex, in London; the Richmond, and Steeven's, in Dublin; the Royal Infirmary in Edinburgh; the Royal Infirmary in Glasgow; or the Royal Infirmary in Aberdeen; or of twice that term in any of the provincial hospitals as above described.

physiology, delivered at subsequent periods; and also one winter course, at least, of lectures on surgery.

4. 'Of having performed dissections during two or more subsequent winter courses.

5. 'Of having diligently attended, during the term of at least one year, the chirurgical practice of one of the following hospitals, viz.

'Guy's, St. Thomas's, St. Bartholomew's, St. George's, the London, the Westminster, and the Middlesex, in London; the Richmond, Steeven's, and the Meath, in Dublin; the Royal Infirmary in Edinburgh; the Royal Infirmary in Glasgow; or the Royal Infirmary in Aberdeen; or of twice that term in any of the provincial hospitals, conformably to the above standing order, No. 3.

There are in each set a few other regulations not important to the present discussion, and each is signed by order, by Mr. Edmund Belfour, the secretary of the court. The second set was issued in February 1826, it does not appear on what day; and on the 18th of the same month of that year, a very numerous meeting of the London surgeons was held at the Freemasons' Tavern, for the purpose of devising the best means of remedying the abuses in the management of the College. Upon this occasion Mr. Lawrence delivered the first of his two speeches, and several resolutions were carried, of which the three most important are the following:

'Thirdly. That the regulations first promulgated and acted upon in 1823, prescribing the course of study required of candidates for the diploma, contain provisions of the most oppressive character, injurious to the rights and property of individuals, calculated to increase the expenses and difficulties of acquiring surgical knowledge, and to serve

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\* What sort of periods subsequent periods may be (not subsequent relatively to something else, but absolutely) or what sort of courses subsequent courses may be, we cannot conjecture. We trust the students whose hopes of the diploma rest upon their conformity to these regulations have been able to solve this enigma.

the private interests of the examiners, by whom they were made. In proof of this statement, the three following regulations may be adduced:

‘ 1st. “Candidates for the diploma will be required to produce, prior to examination, certificates of having regularly attended three winter courses, at least, of anatomical lectures, and also one or more winter courses of surgical lectures, and of having performed dissections during two or more winter courses.” Thus certificates of attendance on summer courses of anatomical and surgical lectures and dissections are no longer received, although such certificates had always heretofore been admitted indiscriminately with those of winter courses; and lecturers inferior to none in established reputation for ability, knowledge, and usefulness, had been in the habit of teaching anatomy during the summer to large classes of pupils, and although such opportunities of employing in anatomical pursuits the five months of comparative leisure, and longer day-light, from May to October, must be advantageous to all zealous students, and particularly convenient and desirable to those whose time and pecuniary means are limited.—Carried unanimously.

‘ This resolution was moved by W. Kingdon, esq. and seconded by — Ingram, esq.

‘ 2nd. Certificates of attendance on anatomical and surgical lectures and dissections are not to be received in future, except from surgeons and physicians to London hospitals, or from others who are vaguely and unintelligibly described as “persons teaching in a school acknowledged by the medical establishment of one of the recognized hospitals,” or from the appointed professors of anatomy and surgery in the Universities of Dublin, Edinburgh, Glasgow, and Aberdeen.

‘ This oppressive innovation confines the honourable and lucrative employment of teaching anatomy and surgery to a few individuals, conferring it on them from an accidental distinction, often independent of personal merit: by excluding all other surgeons, however great their abilities and acquirements, it deprives talent and industry of their just reward, and it extinguishes emulation and competition, the surest sources of excellence. Of the ten examiners whose names are signed to this attempt at erecting the teaching of anatomy and surgery into a monopoly for the benefit of a few individuals, eight were at that time London hospital surgeons.—Carried unanimously.

‘ Moved by G. Maciawain, esq. and seconded by C. A. Key, esq.

‘ 3rd. The College will receive no certificates of attendance on an hospital, unless it shall be situated in London, Edinburgh, Dublin, Glasgow, or Aberdeen: thus a stigma, altogether unmerited, has been fixed on the surgeons of the various provincial hospitals in this kingdom, who are in no respect inferior to their brethren in the schools above enumerated, and on those of similar establishments in other parts of the world, and a large addition has been made to the emoluments of the eight London hospital surgeons who framed the regulations. Among the hospitals thus proscribed, and thereby rendered comparatively useless for the purpose of professional education, we may enumerate those of Newcastle, Leeds, Manchester, Liverpool, Lincoln, Birmingham, North-



ampton, Nottingham, Bath, Bristol, Gloucester, Worcester, Exeter, Norwich, Oxford, and Cambridge.—Carried unanimously.

‘ Moved by R. Welbank, esq., and seconded by W. Kingdon, esq.’

It was then proposed that a committee should be appointed, for the purpose of presenting a remonstrance to the Council of the College; but an amendment, that a petition, founded on the adopted resolutions, be immediately prepared and presented to the House of Commons, praying for the appointment of a committee, to inquire into the abuses of the said College, &c. was carried by a large majority. On the 4th of March, 1826, a second meeting was held at the Freemasons’ Tavern, to consider of the further measures necessary for vigorously prosecuting the appeal to the legislature, when Mr. Lawrence delivered his second speech. On the 26th of April, the Council put forth a defence of the regulations, and on the 8th of September, the third set of regulations made their appearance. Such is the short statement, in the order of time, of the measures adopted by the governors on the one hand, and by the governed on the other.

In the documents which we have inserted, we have been obliged to omit a great deal, not unimportant in itself, but foreign to the purpose of this article, but we have stated at length every thing which bears at all upon our subject.

We now beg the particular attention of our readers to the first set of regulations.

The Court of Examiners is supposed to consist of persons at the very summit of the profession to which they belong; persons, of course, possessed of all the professional knowledge within the reach of men whose lives have been devoted to the cultivation of the sciences and to the practice of the arts of surgery and anatomy; who cannot, therefore, be ignorant of the names of such as have acquired a just reputation by their diligence and success in those branches of knowledge; and if, as is avowed by the Council, persons have been admitted to the diploma of the College, who were really undeserving of that credential, the appropriate remedy is, of course, a more rigorous scrutiny, not only into the qualifications of the candidate, as evinced by his answers to the questions of the examiners, but also into the sources from which he has derived all that body of knowledge which he ought to possess, but which, in the nature of things, he cannot be made to display in the course of an examination.

This, it appears to us, is the course which would be pursued by men possessing the requisite information, and anxious to use it for the benefit of the profession and the public; but

instead of this, what is the conduct of the examiners? They lay down an inflexible rule, excluding the certificates, both of attendance at hospitals and attendance at lectures, of all the surgeons and anatomists of the habitable globe, excepting only a portion of those who teach and practise in the capitals of the three united kingdoms, and in Glasgow and Aberdeen. We say a portion, but to say what portion, is not so easy a matter; for, taking the two regulations on the subject together, we find that the Royal College recognizes schools of anatomy, that in the schools there are hospitals, and then again, that the medical establishments of the hospitals, so being in the recognized schools, acknowledge schools. And the only certificates to be received in future by the Court of Examiners are those which emanate from the appointed professors, or from persons teaching in one of these schools. The idea attached to the word *school* in these two regulations appears to us to be involved in such inextricable confusion, that we are tempted to recommend that the author or authors of them should be sent to some school, as the only adequate means by which they can hope to obtain a more distinct and lucid conception, and to become capable of expressing it in intelligible language.

The above is a pretty good specimen, we think, of the vigorous way in which the Court of Examiners go to work in the business of exclusion, but this is not nearly all. Such is the nature of things, that knowledge can only be acquired in space and in time. The necessary conditions, then, being two, the means of limitation are of course two-fold. This reasoning has not escaped the sagacity of the Court, and accordingly, when we come to look at the nature of the certificates required, we find that the candidate cannot be admitted, however many courses of lectures he may have attended, unless those courses have been delivered in the winter; knowledge, like sound, we suppose, being more easily diffused in cold than in warm weather.

By these expedients is the whole burthen of discriminating between those teachers whose certificates ought to be received, and those whose certificates ought not to be received, removed from the shoulders of the examiners; insomuch that, as far as regards this part of their duty, it is not necessary that they should be possessed of any professional information whatsoever, not even of that slender portion which is necessary in order to apprehend the difference between Blumenbach and Dr. Eady; all that is demanded of them is, that they should know London from Paris, and be able to seize the distinction between January and July.

Ye Gods ! annihilate but space and time ! was the vast and impassioned wish dictated by the love of a woman : the love of sound chirurgical knowledge is a less furious sentiment, and there is a corresponding moderation in the wishes which it inspires. The Court of Examiners, we see, are content, as far as the object of their passion is concerned, with the abolition of all space excepting five cities, and with blotting out only one half of time.

But there are much more serious objections to these regulations, and they are so well stated by Mr. Lawrence in his speech at the first meeting at the Freemasons' Tavern, that we cannot do better than make use of his words :—

‘ As an instructive commentary on the policy of this very regulation, I may observe, that they who have been most distinguished among us for anatomical knowledge, and on whom the character of the country, in respect to this science, must depend, have all belonged to a school which would have been absolutely proscribed by its provisions, which, in short, could never have existed, had this enactment been in force. William Hunter, the greatest character whom England has produced in human anatomy, and inferior to no man in any country, for the variety and extent of his contributions to anatomical and physiological science, and for that combination of genius and acquired knowledge which have caused his name to be venerated wherever the sciences are held in respect, could not, under the present laws of the college, have founded the school which has immortalized his own name, and reflected so much credit on his country. His pupil and associate, Mr. Hewson, who has shown, in his valuable contributions to anatomical science, and particularly in his discovery of the absorbing vessels in birds, that he had imbibed the spirit of his great teacher, would have been equally disqualified ; so would Mr. Cruikshank, the author of the admirable history of the absorbents ; so would that indefatigable and accomplished anatomist, the late Mr. Wilson ; so would the present able professor of anatomy and surgery to our college, Mr. Bell, up to the time of his being appointed surgeon to the Middlesex Hospital. If I were to place in contrast with those who would have been thus proscribed, a list of the individuals who would have been favoured and honoured, the absurdity of the regulation would be rendered so apparent, as to excite your contempt and derision, unless the injury to science and to the character of our country should rouse the stronger feeling of indignation.

‘ Let me observe further, that the practice which has hitherto prevailed, of confining the teaching of anatomy to hospital surgeons, and which the hospital surgeons who compose the Court of Examiners are now endeavouring to establish exclusively, and enforce rigidly, must have been the principal cause of the low state to which anatomical science has fallen in the country of the Hunters, of Hewson, and of Cruikshank. The urgent and imperative duties of the hospital surgeon do not leave him the time required for adequately cultivating, and properly teaching, anatomy ; he therefore restricts his instructions to the points of principal consequence



in relation to surgery, and too often excuses his neglect of the rest, by representing them as unimportant ; thus sanctioning in his pupils a habit of superficial and imperfect study. All the parts of anatomy are so intimately connected, that it particularly requires to be studied as a whole ; no one organ or system of organs can be thoroughly understood without a general insight into the frame. Hence, when many parts are slurred over or neglected, because they are unimportant to surgeons, because no operations are performed on them, because medical practitioners can dispense with an intimate knowledge of them, we cannot be surprised if the mutilated remains of the science should excite only a feeble interest, and all enthusiastic feeling should be extinguished both in teacher and learner. Hence the disgraceful contrast between our own country and the continent, in the recent and present state of anatomy. While the science has been extended, and its literature enriched abroad by the Morgagnis, the Caldanis, and the Scarpas, by the Soemmerrings, Walthers, Prochaskas, Reils, Tiedemanns, and Meckels, by the Bichats, Beclards, and Cloquets, we can hardly mention a single Englishman whose name is known as an anatomist beyond the shores of the island : we have not only no new contributions to the science, but not even a single original standard work worthy of the present state of knowledge ; so that, for any thing beyond Guides to the Dissecting-room, English students must resort to the anatomical literature of France, Germany, and Italy. If the monopoly of anatomical teaching, which the College are now attempting to establish in favour of the hospital surgeons, should be enforced and rendered permanent, it will be calculated to perpetuate this disgraceful state of things, and, if possible, to sink the science in this country to a still lower state.'—p. 21.

Such, then, being the obvious and insurmountable objections to these restrictive regulations, it must naturally occur to every reflecting man, that some very powerful motive must have operated upon the minds of the examiners, before they could have ventured to promulgate such enactments. The high professional eminence of most of the examiners makes it quite impossible that the motive we have noticed above, namely the desire of getting rid of the burthen of discrimination, can have driven them to an expedient so perilous to their reputations. When therefore it appears that

The Court of Examiners by whom these regulations were made and published, consisted of

Sir D. DUNDAS.

W. NORRIS, Esq.

T. FORSTER, Esq.

Sir EDWARD HOME.

Sir LUDFORD HARVEY.

Sir W. BLIZARD.

Sir A. COOPER.

J. ABERNETHY, Esq.

W. LYNN, Esq.

H. CLINE, Esq.

and that the last eight, out of these ten individuals, were surgeons of London hospitals ; that some of them had near relations and connexions in similar situations : that some of them,

and the near relatives and connexions of some, gave lectures on anatomy and surgery; but only winter courses: that at the medical schools of the several hospitals, to which the members of the Court of Examiners who made the above regulations were surgeons, no summer courses of lectures on anatomy and surgery are given, but only winter courses [See note to p. 6 of Mr. L.'s book.]: When all this appears, it is difficult not to believe that the resolutions passed at the meeting of the 18th of February, and which we have copied above, contain the true solution of the difficulty.

Fortunately for the ends of truth and justice, we are not left to judge of this important question upon *ex parte* statements and arguments, for the Council of the College, as we have already mentioned, have put forth an answer to the charges brought against the Court of Examiners. The question is therefore fully ripe for the decision of the public. We give all that part of the defence which applies to the charges which we have noticed.

‘ It has been made a subject of complaint, that certificates of summer courses of lectures are not received by the Court of Examiners: that certificates are not indiscriminately received from every anatomical teacher: and that certificates of attendance on provincial hospitals are not admitted by the court, and such regulations have been censured as unjust bye-laws of the College. .

‘ The Council have, in the first instance, to correct this error. There are no bye-laws on these subjects; these are regulations of the Court of Examiners. The Council have been assured by the Court of Examiners, that so many certificates of attendance on lectures had been presented to them, purporting to be signed by teachers wholly unknown to them, as to render it imperative to define the certificates which in their judgment it would be proper, with a view to the public good and the respectability of the profession, to acknowledge and to receive.

‘ The Council believe, that not any persons, except the Court of Examiners, are able to judge correctly on this subject; and while they wish to correct the erroneous supposition of the regulations in question being bye-laws of the College, they cannot but give credit to the Court of Examiners, for the most pure and conscientious motives, and for an earnest desire to promote the dignity of the profession, and necessarily the welfare of the community, in the legitimate exercise of their discretion on these subjects. The Court of Examiners, anxious that students should attend instructors capable of giving them enlarged and scientific views of the profession, knew not how they could obtain from distant places any evidence of the teacher having himself received a liberal professional education, but by the means which they have adopted; yet, notwithstanding such regulations, it cannot be doubted that any member of the College, possessing in an eminent degree the requisite qualifications for becoming a teacher of anatomy, physiology, and pathology—which are united in the recognized schools—would so distinguish himself as to

justify the admission of his certificates. The regulations of the College must always change with the circumstances of the times. The subject of attendance on provincial hospitals had repeatedly engaged the consideration of the Court of Examiners; but with every respect for, and the highest opinion of, the medical officers belonging to most of these excellent establishments, the Council would witness with regret the indiscriminate admission of such certificates.

‘The Court of Examiners have, under certain conditions, recognized attendance on the practice of some of those hospitals, and the Council are of opinion, that it would injure the cause of chirurgical science were the Court of Examiners to be controlled in the exercise of their discretion on this subject.’—p. 116.

Let us examine this defence. We begin in the spirit of candour, by confessing that the Council upon the first question are triumphant over their adversaries: the regulations are certainly regulations, and not bye-laws. But having made this concession, we fear the remainder of our duty will be of a harsher description.

‘The Council believe that not any persons, except the Court of Examiners, are able to judge correctly on this subject; and, while they wish to correct the erroneous supposition of the regulations in question being bye-laws’ [we readily pardon the vanity of this recurrence to the signal victory gained by the Council upon this point], ‘they cannot but give credit to the Court of Examiners for the most pure and conscientious motives.’

The Court of Examiners are publicly accused by men of eminence in the profession, at a meeting of the great body of the members of the College, of promulgating regulations injurious to the rights and property of individuals, and calculated to increase the expenses and difficulties of acquiring surgical knowledge. These accusations are supported by copious stores of fact and argument, and the profession and the public are modestly desired to accept, as a complete and satisfactory answer, the belief of the Council that no persons, except the Court of Examiners, are able to judge correctly on this subject!

The Pope’s claim to infallibility is nothing to this. The holy see does not found its pretensions upon the *ipse dixit* of any man, or set of men; it rests them upon certain passages of scripture, which, being somewhat ambiguously expressed, furnish a plausible pretext for the usurpation; and, upon the apparent utility to mortal eyes, of having always on earth an inspired expounder of the inspired text; but the Council of the Royal College, with less respect for the prejudices of mankind than has been manifested by the Councils of the Romish Church, coolly proclaim the infallibility of the Court of Exami-



ners, leaving the rest of the world to discover, if they can, how and why it has been so ordered.

It is further alleged that the regulations are calculated to serve the private interests of the examiners by whom they were made; and this allegation, also, is fortified by facts and arguments, we do not say impossible to be answered, but certainly deserving and demanding an answer; and the Council have the incredible assurance to suppose, that they are giving the answer so deserved and demanded, when they announce to the world, that they cannot but give credit to the Court of Examiners for the most pure and conscientious motives!

The document containing these expressions is headed, "Observations in *Refutation* of Charges publicly made by certain Members of the College against its legally constituted Authorities." If this is refutation, we can only say that there never was a charge, reckoning from original sin, down to the last Old Bailey sessions, that was not susceptible of refutation.

The defence, then, as put forth, is a shadow; but, when it is further recollected that the Council and the Court of Examiners are not two, but substantially one (for of the twenty-one persons who compose the Council, ten compose the Court of Examiners); when, we say, this identity of the advocate, witness, and accused, is recollected, we shall be pardoned if unable to invent an expression calculated to convey our opinion of the pretended defence, we borrow the daring language of the lyric poet, and call it the dream of a shadow.

It is doubtless a fine thing *laudari a laudato viro*, but we apprehend it is so, only upon the implied condition that there shall be two parties, or two sets of parties, to the collaudation. The personages here concerned have forgotten this implied condition, and we cannot, therefore, think that they have derived any accession of reputation from the praises heaped upon them.

'The Court of Examiners, anxious that students should attend instructors capable of giving them enlarged and scientific views of their profession, knew not how they could obtain from distant places any evidence of the teacher having himself received a liberal professional education, but by the means which they have adopted; yet, notwithstanding such regulations, it cannot be doubted that any member of the College possessing, in an eminent degree, the requisite qualifications for becoming a teacher of anatomy, physiology, and pathology, which are united in the recognized schools, would so distinguish himself as to justify the admission of his certificates. The regulations of the College must always change with the circumstances of the times.'

We do not profess to understand, any better than Mr. Law-

rence, how a member of the College is to possess the qualifications which are united in the recognized schools ; but, assuming such a feat to be in its own nature possible, we would ask whether the examiners think, that the best way of encouraging individuals to attempt its performance is to assure them, by a solemn resolution, that they shall derive no benefit from the performance? Would not the aspirant naturally reason thus with himself—"Wherefore should I devote my time and talents to the task of rendering myself competent to teach anatomy, &c. when, if I should succeed in acquiring all the qualifications which are united in all the recognized schools, the examiners declare that they will not receive my certificates?" Such is, unquestionably, the real effect of the excluding regulation ; and such is the way in which the court pursue their duty of promoting the cultivation of sound chirurgical knowledge. We cannot forbear recommending the example to the attention of other less ingenious monopolists. The agriculturists, for example, who are somewhat at a loss for reasons to justify their conduct, might derive instruction and emolument from the study. "Foreign grain," say they, "shall not come in competition with ours."—"Why not?" says the public.—"Because" (thus might the country gentlemen reply) "there is none to come ; foreign nations do not grow any for our market ; when they do, they will so distinguish themselves as to justify the admission of their produce ; but, in the mean time, let us, in order of course to encourage such production, exclude the article from our markets by a solemn act of the legislature."

We must here remark, that the defence of the Court of Examiners by the Council, which is dated 26th April, 1826, applies to the motives which induced the examiners to enact the second set of regulations. We are happy to say that, in the third set, the odious regulation respecting private teachers is omitted. We reserve our remarks upon the omission for another place, and proceed now in our examination of the defence.

'The subject of attendance in provincial hospitals had repeatedly engaged the consideration of the Court of Examiners ; but, with every respect for, and the highest opinion of, the medical officers belonging to most of these excellent establishments, the Council would witness with regret the indiscriminate admission of such certificates.'

We are now come to the climax. This is the mere wantonness of despotism, the careless and shameless effrontery of irresponsible power. Ten surgeons in London, with a dash of their pens, render useless, as far as in them lies, the certificates of attendance upon all the hospitals in England, except those with which they are themselves connected (afterwards, it is true,

they qualify this total exclusion ; but the qualification, as we shall presently show, is merely nominal) ; thus inflicting, at the same moment, an injury and an insult (which, by their own confession, is wholly unmerited) upon the distinguished men connected with those institutions : and, when the pernicious consequences of such exclusion are clearly and elaborately displayed, the said ten surgeons, with eleven others, are contented to reply, without so much as an attempt to show that the predicted consequences will not follow, that they “ would witness with regret the indiscriminate admission of such certificates.”

We will now exhibit to our readers the nature of the qualifications to which we have just alluded. The first set of regulations required, in substance, that the candidate should have attended, during one year, the chirurgical practice of an hospital, being in London (if in England), and containing, on an average, one hundred patients. The second set of regulations announces that “ The Court of Examiners will, however, receive, as testimonials of education, certificates of attendance on provincial hospitals containing one hundred patients *under chirurgical treatment*, provided a student shall have *previously* attended two courses of anatomical lectures, and two courses of dissections in any of the recognized schools of anatomy. Yet the Court of Examiners require that the term of attendance on such provincial hospitals shall be of *twice the duration* of that required at hospitals in any of the recognized schools of anatomy.”

And the candidates are required to produce certificates “ Of having diligently attended, during the term of at least one year, the chirurgical practice of one of the following hospitals, viz. St. Bartholomew’s, St. Thomas’s, the Westminster, Guy’s, St. George’s, the London, and the Middlesex in London ; the Richmond, and Steeven’s, in Dublin ; the Royal Infirmary, in Edinburgh ; the Royal Infirmary, in Glasgow ; or the Royal Infirmary, in Aberdeen ; *or of twice that term in any of the provincial hospitals, as above described.*”

Mr. Lawrence [in his note, p. 7], after having proposed some conjectural emendations of various blunders in the resolutions, remarks, “ The clause printed in italics, having no grammatical or significant connexion with the surrounding matter, must have reached its present situation fortuitously ; amputation is the only treatment that can be proposed for it.”

Now though we have the utmost deference for Mr. Lawrence’s opinion, even upon a question of metaphorical amputation, we cannot but think his decision somewhat harsh upon this occasion. The Court of Examiners, as we have seen, are by no



means happy in their efforts at expressing those ideas with which they appear to be most familiar; the ideas, to wit, of restriction, exclusion, and monopoly; some indulgence, therefore, must be extended to them, in their first attempt at a clause of relaxation; and we, for our parts, are disposed to treat with the utmost tenderness the imperfect lisplings of this new-born spirit of liberality, and are determined to comprehend the meaning of the court, notwithstanding their own explanation of it.

To a cursory reader of the resolutions, it would appear, that the only difference, in the estimation of the examiners, between the London and the provincial hospitals is, that the former are supposed to complete the work of instruction twice as quickly as the latter; but a more accurate critic may perceive in the words *chirurgical treatment*, that, in the opinion of the Court, the power of the metropolitan is, to that of the provincial engines of instruction, not as two to one, but as four to one; for in the London hospitals, say they, there must be, on an average, 100 patients; but in the provincial hospitals there must be 100 patients under *chirurgical treatment*; that is to say, 200 patients on an average; for the number of *chirurgical* cases in an hospital is, on an average, equal to the number of non-*chirurgical* cases. This, we think, is no very modest attempt of the London surgeons who constitute the Court of Examiners, to exalt their own hospitals.

But even this is not the whole of the injustice of which the provincial hospitals have to complain: not only must there be twice the number of patients in them which is deemed sufficient to entitle a London hospital to the notice of the College; not only must the attendance of a student in them be twice as long as the attendance of a student in a London hospital, but this attendance upon a hundred *chirurgical* patients during the course of two years is still insufficient to entitle the student to an examination by the College, unless he have "*previously attended* two courses of anatomical lectures, and two courses of dissections, in any of the recognized schools of anatomy," a condition from which those who attend the London hospitals are exempt. We cannot refrain from saying that the candour of the examiners would have been much more apparent, while their injustice would have been not at all more apparent, if they had said distinctly, that the provincial hospitals were wholly unworthy of their attention.

In order fully to appreciate the effect which these unjust distinctions have upon the provincial hospitals, it is necessary to remark that a regulation which professes to be merely restric-

tive, is in reality prohibitory, unless there be, in the subject of the restriction, some advantage which serves to balance the inconvenience of the restriction; this abstract proposition requires an illustration. The French have at present an advantage over the English in the production of silk manufactures, consequently a duty on French silk, if not too high, is, as it professes to be, a mere restriction; but, suppose that the French had no such advantage, suppose that if no duty existed, a French and English handkerchief of equal goodness could be sold at the same price in London: it is then clear that the imposition of a duty on French silk would be really a prohibition, and that Mr. Huskisson's late measure, instead of being, what it really is, would be only a change from an avowed, to a disguised, monopoly. Now to apply this doctrine to the case before us. It is clear that the provincial hospitals have not any such advantage over the London hospitals, as can balance the effect of the injurious conditions imposed upon them. No man, in his senses, whose object was to obtain the diploma of the College, would think of seeking it by means of attendance on a provincial hospital under these regulations. Our readers will see, therefore, that we were fully justified when we said, that the qualification was merely nominal, and that the monopoly concealed under the second set of regulations is, to all intents, as complete and rigorous, as that which was the open and avowed object of the first set. Here again the third set differs from the second; but, as we shall very soon arrive at the examination of that set, we need take no further notice of it in this place.

In order that our readers may judge what foundation there is for the pretence that each of the provincial hospitals of England, considered as a place of professional education, is worth only one fourth of a London hospital, we beg their attention to the following remarks of Mr. Lawrence:—

‘Gentlemen, you will not have failed to observe that the rule which requires attendance on an hospital in London, Dublin, Edinburgh, Glasgow, or Aberdeen, tacitly excludes the certificates of all the provincial hospitals in England, and of all similar establishments in all other parts of the world. This proscription conveys a most injurious reflection on the surgeons of our county hospitals: having the pleasure of being acquainted with many of them, and being therefore able to speak, from personal knowledge, of their abilities and professional attainments, I have no hesitation in declaring that a more unmerited exclusion was never pronounced against any set of men. Need I mention Mr. Hey, of Leeds; Mr. Swan, of Lincoln; Messrs. Attenburrow and Oldknow, of Nottingham; Mr. Hodgson, of Birmingham; Messrs. Smith, Lowe, and Daniel, of Bristol; Mr. Norman, of Bath; Mr. Carden, of Worcester; Messrs. Fletcher and Cother, of Gloucester;

Tuckwell and Wingfield, of Oxford ; Okes and Abbott, of Cambridge ; Martineau, Dalrymple, and Cross, of Norwich ; Barnes and James, of Exeter ; in order to justify the expression of my perfect conviction, that the provincial surgeons of England are as fully competent to the instruction of students, as the favoured body who are attached to the London hospitals. Gentlemen, the regulation I am now considering inflicts a two-fold injury ; it is unjust not only to the surgeons whom it stigmatizes and degrades, but to the pupils whom it subjects to unnecessary difficulty and expense in acquiring a knowledge of their profession ; and it must consequently be detrimental to the public for whose benefit the College was instituted. The provincial hospitals of England ; many of which equal in the number of their patients, the smaller hospitals of London, afford every opportunity of acquiring that most valuable kind of knowledge which is derived from experience. The practical study of the profession is here conducted with peculiar advantage, from the comparatively small number of students, and the circumstance of their attention not being distracted by that multiplicity of other objects which are crowded together into the inadequate period allotted to London studies. To many it will be not a slight recommendation of these more tranquil and deliberate country studies, that they do not involve the separation of the student from his family and connections. While the College regulation thus discourages the employment, for the purpose of professional education, of those excellent opportunities which county hospitals afford, and thereby tends to weaken in their surgeons, the principles of emulation and competition, which ought to be encouraged and strengthened ; it has the further injurious effect of crowding with pupils the wards and operating theatres of the London hospitals, so as to limit, and often entirely impede, all useful instruction in those establishments. The number of persons to whom instruction can be imparted at the bedside of the patient is circumscribed within narrow limits. However great the ability and knowledge of the surgeon, and his desire to communicate information, however zealous and attentive the students, the examination and explanation of a case, and its principles of treatment, can be made useful only to the small number who are able to see the patient and hear the surgeon. The attendance on a London hospital, which the College obliges you to pay for before you can be admitted to examination, must therefore, in many cases, be little more than nominal ; and, generally speaking, deserves much less reliance, as proving the possession of appropriate practical knowledge, than the employment of an equal portion of time in a county hospital.—p. 23.

We have now gone through this defence, as far as it professes to exculpate the Court of Examiners from the charge brought against them, of sacrificing the interests of the profession and the public, to secure to themselves and their friends the unfair advantages of monopoly. The defence affects to do this in two ways. 1. By general assertions of the moral and intellectual excellence of the examiners. 2. By pointing out certain laudable motives, as the real inducements to the course pursued by



the examiners, and complained of by the body of the profession. If we have succeeded in convincing our readers that the general assertions, to which much importance can never be attached, ought upon this occasion to have no weight at all, as coming, in reality, from the accused party; and secondly, that the laudable motives pointed out are such as could not possibly have led to the enactment of the resolutions of March 1824, and February 1826, it remains that the Court of Examiners are without defence; and that the conduct of those distinguished gentlemen can be viewed only as a most striking illustration of the first of those two great principles with which we set out.

Any body, indeed, that considers who the rulers of the Royal College are, that they are not only men of education, but men distinguished, for the most part, for their acquirements, must, we should think, be led to suspect that nothing but the consciousness of possessing the power to act without giving any reason at all, can have induced such men to assign such reasons as those which we have been examining. This is not the sort of defence which would be offered to men whose approbation it is necessary to ensure. It resembles rather the sordid fragments which a man throws gratuitously to a beggar or a dog, than the decent and nutritious repast which he sets before those whose good opinion he is anxious to possess.

There is a very ancient example of this mode of proceeding in the chirurgical profession. The original founder of the art is represented by Euripides, discoursing with the arch enemy of it, in the following manner:

“Θαῖσει (says Apollo to Death, who did not quite relish the appearance of things) δίκην τε καὶ λόγους κεδνούς εἰχω.”

“Τί δὴ τα τοξῶν ἔργον, (asks Death very significantly) εἰ δίκην εἴχῃς;”

To which Apollo answers, at least as significantly,

“Συνήθεις αἰεὶ ταυτὰ βαστάζειν ἐμοί.”

“Be of good cheer, I have justice and excellent reasons.”

“What then is the use of your bow, if you have justice?”

“It is my custom always to carry it about with me.”

It seems to us as if the poet, in prophetic vision, had intended, by the bow of the surgeon-god, to typify the charter of the Royal College; and by the perseverance with which Apollo holds fast his weapon, had mysteriously prefigured that sagacity with which the Council, two thousand years afterwards, would choose to rely upon the solidity of their irresponsible power, rather than trust to such frail supports as δίκη and λόγοι κεδνοί.

To render the Council and the Court of Examiners responsible, is of course the great object of all those who have the general

interest at heart; and accordingly it was resolved at the meeting, as we have already stated above, that parliament should be petitioned to re-model the charter of the college.

But, besides the interference of parliament, there is another mode in which the authorities of the Royal College may be made accountable for the exercise of that power which their charter professes to confer upon them, unclogged by any responsibility. Nobody, indeed, can repeal the bye-laws and resolutions which they pass; but so long as it is possible to publish to the whole world the proceedings at Surgeons' Hall, and to comment upon them, so long as the council and the examiners are not sufficiently powerful in the state to despise the applause or the censure of all but those who profit by their measures, so long there is hope, nay, there is pretty good security, that they will not persevere in a course which is as clearly proved to be detrimental to the public interest, as it is beneficial to their own. Of this, there is, upon the present occasion, direct evidence, and this direct evidence is what constitutes the illustration of the second general principle which we stated in the outset.

On the 8th of September last, the Council, and the Court of Examiners together, passed the third set of regulations, which, as far as they differ from those we have just been discussing, exhibit undoubted signs of improvement.

They no longer begin *tanto hiatus*; there is no preamble about duty and sound chirurgical knowledge, as there was when they were establishing an injurious monopoly. They

“Do good by stealth, and blush to find it fame.”

The document is no longer inconsistent upon the face of it; it no longer professes to promote the cultivation of knowledge by means which, as far as they operate at all, discourage the cultivation of knowledge. The reason of this omission probably was, that the legislators thought they could not with decency and consistency state, as the motives for repealing part of the obnoxious regulations, the very grounds which they had, six months before, put forward as the pretence for enacting these regulations. Neither could they with decency, though they might with perfect consistency, have prefaced the repealing resolutions with “The Court of Examiners, in contravention of their duty,” &c., as they had prefaced the enacting resolutions with “The Court of Examiners, in pursuance of their duty,” &c.; neither could they, being infallible, deny the correctness of their former opinions, any more than the Pope can deny the correctness of his own rescripts. They seem, therefore, to have

adopted the only course that was open to them, by prefixing no preamble at all to their last legislative work. This gives us, however, the opportunity of suggesting one, not with the presumptuous hope that the council and examiners will assent to it, but merely for the purpose of connecting and explaining the operations of these bodies to the apprehensions of our readers:—

“The Court of Examiners, in pursuance of their determination to promote the interests of the hospitals and lectures, with which they and their friends are connected, to the exclusion of all others, but restrained, at the same time, by the sense of shame to which they feel themselves subject, have,” &c.

This, as it seems to us, is the implied preamble to a series of regulations, in which one of the most obnoxious of the previous enactments is mitigated, and another omitted altogether. The mitigation, we must allow, is not an important one; its practical effect is, perhaps, nothing at all, but it evinces, nevertheless, a disposition to give way before the public disapprobation, which, we doubt not, may be turned to great account; it consists of the suppression of the words “*under surgical treatment*” in the description of the provincial hospitals, which the authorities of the College are willing to recognize, and it places these establishments, as far as the number of patients alone is concerned, on a level with the hospitals of the capital.

But the regulation which is altogether omitted was perhaps, the most hateful and obnoxious of the whole, and its suppression, besides the direct advantages which result from it, affords one of the most striking and palpable examples of the benefit derived from unrestrained discussion that has ever fallen under our notice, and as such we regard it with almost unmixed satisfaction.

The Council and the Court of Examiners would certainly have acted a more manly part, if they had positively and distinctly repealed what they have only tacitly suppressed; if they had stated the reasons for the repeal, instead of merely suppressing the reasons for the enactment; and we cannot but regard it as a strange and perverse notion of their own dignity, which has led them to call the attention of the world to their restrictive and injurious laws, by a sounding and grandiloquent exordium, and afterwards to make reparation to their profession and their country in secrecy and silence, as if they were ashamed of the task. It is probable that they are possessed with that vulgar but pernicious opinion, that those in authority should never acknowledge their errors; that even when the public indignation has compelled them practically to recant,



they should still pretend to do so *ex mero motu suorum*, and not from a regard to the just remonstrances of those whose interests have been confided to their care.

This pretence, however, is far too thin to deceive men of understanding; and we trust, therefore, that the same gentlemen whose public-spirited exertions have already achieved so much, will, nevertheless, think they have done nothing, while any thing remains to be done. We promise, on our parts, that our assistance shall not be wanting. We hold in our hands an instrument of publicity, which, so long as it is not prostituted to serve the interested views of an individual or a party, no man, or class of men, can pretend to despise. Whether, therefore, the legislature shall think fit to circumscribe the power which has been abused, or, by making the Council and the Court of Examiners elective by the commonalty, to render these bodies responsible to real constituents for the proper exercise of their discretion, or whether they shall still be left in possession of those privileges which Parliament thought it wrong to grant, but which the king, who can do no wrong, did grant, we think it is, at all events, safe to predict, that there will be no more such regulations as those of March, 1824, and February, 1826; and that the period will be very short, during which the latitude and longitude of an hospital are to be considered as affecting its claims to recognition; that the summer of 1827 will be reinstated in those rights which have been enjoyed by its predecessors from time immemorial, and science once more be in season throughout the year.

ART. IV.—1. *The English in Italy.* 3 vols. London. 1826.

2. *Continental Adventures. A Novel.* 3 vols. London. 1826.

3. *Diary of an Ennuyée.* London. 1826.

WHEN peace came, after many long years of war, when our island prison was opened to us, and our watery exit from it was declared practicable, it was the paramount wish of every English heart, ever addicted to vagabondizing, to hasten to the continent, and to imitate our forefathers in their almost forgotten custom, of spending the greater part of their lives and fortunes in their carriages on the post-roads of the continent. With the brief and luckless exception of the peace of Amiens, the continent had not been open for the space of more than one-and-twenty years; a new generation had sprung up, and the whole of this, who had money and time at command, poured, in one vast

stream, across the Pas de Calais into France : in their numbers, and their eagerness to proceed forward, they might be compared to the Norwegian rats, who always go right on, and when they come to an opposing stream, still pursue their route, till a bridge is formed of the bodies of the drowned, over which the living pass in safety. The simile holds good in more ways than one : the first emigrants, it is true, were not wholly killed, but the miseries they endured, of dirty packets and wretched inns, were the substratum from which has arisen the elegant steam-packet, and the improved state of the continental hotels. But in those early days of migration, in the summer of 1814, every inconvenience was hailed as a new chapter in the romance of our travels ; the worst annoyance of all, the Custom-house, was amusing as a novelty ; we saw with extasy the strange costume of the French women, read with delight our own descriptions in the passport, looked with curiosity on every *plât*, fancying that the fried-leaves of artichokes were frogs ; we saw shepherds in opera-hats, and post-boys in jack-boots ; and (*pour comble de merveille*) heard little boys and girls talk French : it was acting a novel, being an incarnate romance. But these days are now vanished : frequent landings at Calais have deprived it of its captivating novelty. Many of our children, under the guidance of foreign nursery-maids, lisp French as well as any little wood-shod urchin among the natives. We have learned to curse the *douane*, and denounce passports as tyrannical and insufferable impediments to our free progress.

When France palled on our travelled appetites, which always crave for something new, Italy came into vogue. As preparatives for our pilgrimage to that country, whose charm is undying, we devoured the fabulous descriptions of Eustace, and well-poised sentences of Forsyth, and a traveller from Italy inspired us almost with devotional respect. We do not think that we are guilty of any exaggeration when we affirm, that even now that the English are almost cloyed with foreign travel, a journey to Italy is still regarded with enthusiastic transport, and when visited, that country is quitted with greater regret than any other, and the peculiarity of its situation accounts for this. We all wish to burst our watery bound, and to wander in search of a more genial climate than that enjoyed (according to the vulgarism, *he enjoys a very bad state of health*) by our native land. Neither France, Germany, nor Switzerland, content the swallow English. La belle France is now acknowledged to be the most unpicturesque, dull, miserable-looking country in the world. The name of Germany is sufficient in itself to inspire a kind of metaphysical gloom, enlightened only

by meteoric flashes from the Hartz or the Elbe. Passing the Jura, surrounded by the mighty Alps, we ramble delightedly over Switzerland, till the snow and ice, ushered in by the chilling Biv, cause us to escape from the approach of a winter more severe than our own. We fly to Italy ; we eat the lotus ; we cannot tear ourselves away. It is the land of romance, and therefore pleases the young ; of classic lore, and thus possesses charms for the learned. Its petty states and tiny courts, with all the numerous titles enjoyed by their frequenters, gild it for the worldly. The man of peace and domesticity finds in its fertile soil, and the happiness of its peasantry, an ameliorated likeness of beloved but starving England. The society is facile ; the towns illustrious by the reliques they contain of the arts of ancient times, or the middle ages ; while its rural districts attach us, through the prosperity they exhibit, their plenteous harvests, the picturesque arrangement of their farms, the active life every where apparent, the novelty of their modes of culture, the grace which a sunny sky sheds over labours which in this country are toilsome and unproductive.

This preference accorded to Italy by the greater part of the emigrant English has given rise to a new race or sect among our countrymen, who have lately been dubbed Anglo-Italians. The Anglo-Italian has many peculiar marks which distinguish him from the mere traveller, or true John Bull. First, he understands Italian, and thus rescues himself from a thousand ludicrous mishaps which occur to those who fancy that a little Anglo-French will suffice to convey intelligence of their wants and wishes to the natives of Italy ; the record of his travels is no longer confined, according to lord Normanby's vivid description, to how he had been "starved here, upset there, and robbed every where" [*English in Italy*, vol. ii. p. 229]. Your Anglo-Italian ceases to visit the churches and palaces, guide-book in hand ; anxious, not to see, but to say that he has seen. Without attempting to adopt the customs of the natives, he attaches himself to some of the most refined among them, and appreciates their native talent and simple manners ; he has lost the critical mania in a real taste for the beautiful, acquired by a frequent sight of the best models of ancient and modern art.

Upon the whole, the Anglo-Italians may be pronounced a well-informed, clever, and active race ; they pity greatly those of their un-Italianized countrymen, who are endowed with Spurzheim's bump, denominated stayathomeativeness ; and in compassion of their narrow experience have erected a literature calculated to disseminate among them a portion of that taste and knowledge acquired in the Peninsula. Lord Byron may be



considered the father of the Anglo-Italian literature, and Beppo as being the first product of that school; lord Normanby brings up the rear. The plan of his work, entitled, "The English in Italy," is excellent. It is difficult, after a long residence in a foreign country, to collect one's variety of experience into one focus. The detached anecdotes and observations on manners, made at various periods and places, are grouped in the mind, while it is impossible to select any form of journal, letter, or narrative, which will combine the mass in an intelligible form, and cause the reader to seize, as the author did, the conclusions to be drawn from such multifarious materials. Besides, though mere travellers are culpably negligent on this score, the resident Anglo-Italian is withheld by honour, from the exposition of facts and names. Lord Normanby has hit upon a medium both novel and entertaining. He has given a series of tales, in which the English and Italians alike figure; the contrast between the two nations adds to the interest of these sketches, while the colouring of fiction is thrown over truths, which it would be difficult to convey in any other manner. It is impossible to read "The English in Italy" without being struck at every page with the verity of the delineations of character and manners, and without admiring the skill with which the noble author has seized and expressed the slight shadowings, and evanescent lights, peculiar to the complicated form of Italian society, which must have escaped a ruder pen. We frequently, it is true, dissent from his lordship's opinions and conclusions, but we always assent to the truth of his facts.

The first (and it is the best) of his longer stories is entitled *L'Amoroso*. It is the tale of a high-bred English girl, who, enchanted with the beauty of Naples, the softness of its climate, the vivacious and easy tone of society, and the ardour of her Italian lover, sacrifices her first *half* love (first loves are, for the most part, we fear, half loves), and gives her hand to a Neapolitan count. The gradual development of her Italian husband's feelings, her awakening to the truth of her situation, and the growth of her despair, is admirably managed; yet in all this there is something besides the comparative merits of English and Italian domestic customs. We can none of us attempt, with impunity, to engraft ourselves on foreign stocks: the habits of our childhood cling to us, and we seek in vain for sympathy from those who have travelled life quite on a different road from that which we have followed. We are far from advocating the Italian conjugal system, which puts the axe to domestic happiness, and deeply embitters the childhood of the

offspring of the divided parents ; nevertheless, we must observe, that the misery suffered by the English girl in Italy would on other accounts, but in no minor degree, become the lot of an Italian married to an Englishman. Let us imagine the daughter of a Neapolitan noble, dragged from her beautiful country and sunny clime, deprived of her box at the opera, her ride on the Corso, her cortège of devoted servants, her circle of complaisant friends, her *dolce far niente* ; to the toils and dulness of an English home—to the cares of housekeeping—a charge not imposed on Italian females—her snug, but monotonous, fire-side, her sentry-box of a house ; to our cloudy sky ; to the labour of giving dinners and entertaining evening parties ; to those numerous etiquettes easy to the natives, unattainable by foreigners ; to the *sotto voce* tone (if the metaphor be admissible) which characterizes our social intercourse, to the necessity of for ever wearing that thick and ample veil of propriety which we throw over every act and word : introduce the ardent, simple-hearted, undisguising Italian to this world, so opposite to her own, and she would experience the same heart-sickening disappointment that visited the heart of the heroine of the *Amoroso*. To us, and particularly to our females, these laws of constraint are the music, the accompaniment by which they regulate their steps until they cannot walk without it ; and the veil before spoken of is as necessary to their sense of decency as their very habiliments. It is natural, therefore, that the English girl of the tale should be transfixed with grief at the request from her husband to conform with Italian customs ; and it is also inevitable that the first step she takes in compliance with this request must sin against Italian etiquette, and, though liberty is offered her, that she should find that even the excess of freedom does not permit her the exact liberty she wants.

The “Politico” contains a rapid but masterly sketch of the Piedmontese revolution. The author, it is true, judging only from the apparent effects, blames this sudden burst of impatience on the part of Italians any longer to bear their galling chains. He says, that they had better have waited a few years, as if the capacity of waiting did not engender a callousness to the evils of tyranny, incompatible with a generous love of liberty. The revolution ended unfortunately, it is true ; but, most certainly, if the attempt had not been made, the Italians would have lost their characteristic of being slaves “*ognor frementi*,” and have sunk into as degraded an existence as that of the Fanariotes of Constantinople. From the smothered fire of this crushed revolt a brighter flame will hereafter rise : it was a glimmer, a flash, a reflection, sent back from the blaze

just then kindled by the Spaniards: both are quenched now, but not for ever.

If the Italians could have viewed the Spanish struggle, and still submitted uncontending to the Austrian, they could never more have lifted their heads as a nation, nor possessed any claim to our commiseration. One of the chief causes, indeed, of the failure of the revolt of 1820-21 was political despair. This despair originated in the disarmed state of the natives, and the terror engendered by the Austrian bayonets. In every Italian state, except Tuscany, this fear was joined to a never-dying hatred of their oppressive rulers; which made them on the alert to seize every opportunity to rebel against their tyrants. While the flame of revolt spread from the Alps to Brundisium, Tuscany alone was tranquil. They talked of liberty, but their enthusiasm began and ended in talk. The grand duke appreciated so well the quiescence of his loving subjects, that when the Austrian minister presented him with a list of sixty-seven Carbonari worthy of incarceration, Ferdinand refused to look at it. He did not believe, he said, that these men were Carbonari, but he was sure if he imprisoned them they would become so. Who, indeed, were to form the patriotic band? Not the peasants: the idea of political liberty never entered their heads. They work hard, and their genial climate lightens their labour of all the misery which renders the peasant's life so irksome in this country; yet still, from the utter want of money and traffic, their hardest labour only enables them to labour on. In the cities neither the rich nor the poor are willing to risk their wealth or their safety. There is another class of persons, the men of letters and students at the universities. The first are peacefully inclined, the second unprincipled: they are ready for riot, but they are little fitted for any commotion which has for its aim a noble and enlightened purpose. Yet we do not think the emancipation of Italy far off. In one circumstance, Italy is far better situated than Spain—in case of a revolution. Religion is here no enemy of political liberty. Napoleon gave a blow to Italian superstition, from which it will never recover. By destroying the wealth of the priests, he has destroyed their influence. The higher classes are liberal in their opinions, and the little bigotry that subsists among the lower orders is wholly untinged by the spirit of persecution. The great and immovable foundation-stone, the boundary mark of Italian liberty, which still subsists, though no superstructure is thereto added, is their natural talent. In spite of college restrictions, in spite of almost universal ignorance, their native genius flourishes; their untaught courtesy, their love for the fine arts, the



poetry with which their sunny sky endows them, prevent their being brutified; and thus Italy possesses in her own bosom the germs of regeneration, which, in spite of their late overthrow, will in the end give birth to their emancipation.

But to return to "The English in Italy" The "Sbarbuto" approaches nearest to a failure of any of the sketches; the hero is a kind of ideal of lord Byron. The "dear Corsair expression," now going out of fashion, is introduced, and the mixed character of bandit and dandy is carried to its height. Truth of description and liveliness of narrative, two chief characteristics of this author, render even this strange anomaly interesting. The conclusion of the tale is singularly abrupt, but it may be observed that all lord Normanby's catastrophes are faulty; that of "Matilda" has been justly censured. The author wished to pourtray the evils resulting from certain modes of action, and yet the tragic conclusion of the tale is entirely independent of the chain of unhappy events which were to appear of necessity to arise from the heroine's departure from the moral laws of her country. The conclusion of the "Sbarbuto" is still worse, and our imagination received a most disagreeable baulk, when, on turning the last page of this tale, we found that was indeed the last.

The sketches called the "Zingari," which detail a variety of adventures which have befallen the gipsy English in Italy, are perhaps the best part of the book. There is nothing outré, nothing of caricature in any of these portraits. We recognize many well-known faces, and at each successive narration remember a *pendant* that has come within our own experience. Utter ignorance of the Italian language is the source of many of the ludicrous situations in which the English get involved. French does not, as has been said, carry the traveller through Italy; those who depend on it, will find their support fail them at the first Italian town they enter. Besides, the Italians speak French with peculiar awkwardness; they are unable to accentuate its unutterable consonants and slipshod vowels. When an Italian has welcomed a foreigner with gravity, and even with sulkiness, answering their introduction with a few mispronounced French phrases, if replied to in their own language, their ease of manner returns, and they become as graceful and facile in conversation as before they were repulsive.\* The tales

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\* Innumerable are the anecdotes that might be related of the ridiculous mistakes of the un-Italianized English in Italy. A gentleman at Rome said to us one day, "These Italians have no idea of morality or virtue; the fine arts are the only things they think worth praising. I was speaking to signora D—— of a young lady whom I described as, *Di gran genio, bella, amabile, e poi virtuosissima*, on which the signora asked with

of the "Zingari" may serve as so many lessons to all future travellers as to what they may seek and what they may shun in Italy. We may learn the perils of Vetturino travelling from "The Economist," assured that the details are by no means caricatured; and we may reap still more serious profit from the sketches entitled, "Change of Air," and "Boyhood Abroad." And yet, as is frequently the case, further experience overthrows the minor one, and the discomforts and dangers which are the lot of an invalid traveller in Italy will change to comforts and safety, if he becomes a resident there. If, indeed, the invalid travel, like lord Normanby's hero, from one town to another, from one bad inn and cold lodging to another a match for the last, he may certainly return from such pursuit of health worse than he went. But let him fix on some city for a constant residence: Pisa we recommend as most equable in climate; let him get his English comforts about him, as he may with ease and cheapness from the free port of Leghorn, not twelve miles distant, and he will then find the advantage of a southern residence. The streets of Pisa are quiet, and the whole town wears a sober, scholastic aspect. The north side of the Lung Arno, looking towards the south, is warm at mid-winter, and always presents a delightful promenade. The rides round the town are beautiful; you have your choice of the pine forest of the Cascina, or the road along the plain that skirts the neighbouring hills, which, covered with olives, chesnuts, and last, toward their summit, with pines, are, though not high, remarkably picturesque. The whole road from Vico Pisano to Lucca, some twenty or thirty miles, presenting successive pictures of fertility in the plain, and of the view of ravine or precipice in the mountains, is within four miles of one or other of the gates of Pisa. The neighbourhood to the sea is an advantage not to be omitted. Let an invalid do this, and he will speedily acquire the health and spirits, the promise of which drew him from his home.\*

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vivacity, *Davvero si conosce forse nella musica?*" We were near the same gentleman at a *conversazione*, he was looking over some pieces of music, when an Italian lady, apropos of his occupation, asked, "*E' virtuoso lei?*"—"Lo spero," replied the astonished Englishman, and then turned to us to remark on the oddity of catechising a gentleman concerning his virtue; forgetful that even with us *virtù* is not virtue. Foreigners may murder English, but an Englishman's assassination of French and Italian is even more entire and remorseless. We heard one of our countrymen in Paris, in felicitous Anglo-French, ask the driver of a *fiacre*, "*Pouvez-vous aller à rue Saint Honoré dans vingt cinq minuits?*"

\* We were about to add that in the Professor Vaccà he would find an able substitute for any English medical aid; but alas! this estimable man is now dead, and we can do no more than consecrate this note to his

We are surprised that lord Normanby has not introduced more of the country life of Italy, which bears a peculiar stamp, and which is pregnant with interest and beauty. Generally speaking, our countrymen see only the surface of the country, and are unaware of the minutiae of the peasants' life, and their mode of agriculture. They are connoisseurs in paintings, and frequenters of drawing-rooms ; but the inferior classes of their fellow beings possess no interest for them : and yet it is in the country of Italy that you see most of the true Italian character, and most enjoy the exhaustless delights of that sunny clime. The very aspect of the country to a cursory observer will prove this assertion. The use of oxen in their agricultural labours is seemingly a small, and yet, in truth, a great improvement to the picturesque of the rural scene. The oxen of Italy surpass, in beauty of form, in the sleekness of their dove-coloured skin, and the soft expression of their large eyes, all other animals of their species. In every part of Italy we encounter, during our walks, in lanes bordered by elms and willows, to which the vines are trained and festooned, frequent wains drawn by these animals, yoked by the neck ; and the dark-eyed driver, with his sun-burnt limbs, in no manner detracts from the beauty of the picture. It is curious in Italy to observe the great advantage the peasants possess as to personal appearance, over the town's-people. The inhabitants of the cities, whether rich or poor, are for the most part low in stature, sallow-complexioned, bent shouldered ; but if while you are induced, by the appearance of the citizens, to lament the degeneracy of Italian beauty, you wander in the country, or enter the market-place, to which, on certain days, the country people resort, you are immediately convinced that you now behold the models of the Italian painters. You are struck by groups resembling those fine fellows represented in the paintings of the Adoration of the Shepherds. Their very occupation adds to their pictorial appearance. They are employed among the vines, or following the oxen-drawn plough, whose rough mechanism is such as Virgil describes ; frequently in summer they work merely in a shirt, and the white colour of the linen contrasts well with limbs whose veins seem to flow with dark wine. The women, less hard-worked than the French *paysannes*, perform the lighter labours of the farm, and, notwithstanding the shade of their large straw-hats, soon acquire a

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memory. His talents were of the highest order, and as a practical surgeon he stood in the first rank of his profession. His private virtues secured for him universal esteem ; he was gentle, yet full of enthusiasm ; a select specimen of Italian virtue and genius.



deep but healthy hue ; in an evening they are seen returning from fetching water at the spring, bearing their pitchers of an antique shape on their heads, stepping freely under the burthen. Of course we do not pretend to say that all, or even that the greater part of them, are handsome ; but they have, for the most part, pleasing expressions of countenance, and the beauty you do encounter is of a high character ; their brows are finely moulded, their eyes soft and large ; the cheeks sink gently towards the chin, and their lips remind you of those chiselled by Greek sculptors. Such we have seen in the evening emerging from the trellised *pergole*, or vine-walks, singing in perfect tune, and with clear, though loud voices, the simple but beautiful melodies peculiar to the Italian peasantry.

It is true that, in thus eulogizing the country of Italy, our remarks must be understood as being principally confined to Tuscany. In Lombardy the abundance of pasture-land is inimical to the happiness of the peasantry : nor are we sufficiently acquainted with the rural districts of the Roman and Neapolitan states, to speak with precision concerning their inhabitants. In Tuscany the farms are usually small, and held at long leases ; the rent is often paid in kind, and the landlord receives as his share one half of the produce. The expenses are also shared between the landholder and the cultivator, the former providing the heavy stock, cattle, ploughs, out-houses, wine-presses, &c. ; the peasantry the lighter utensils, and repairs of hedges, sluices, &c. The smallness of the farms renders the farmer almost always the labourer ; a hired workman is rare among them ; and the cottager, we should almost call him, with a farm of twelve acres, whose family is sufficiently large to cultivate the land, and whose share of corn and wine suffices to maintain that family without extra purchase, considers himself rich ; for, then, the superfluous money he obtains by the sale of vegetables, fruit, and the better kind of wine, clothes his family, and keeps his farm and house in repair. Their lives would be deemed, and justly deemed, hard in England, for our unbenign climate would render painful the continual out-door work, which is light to them.

The Tuscan name for their small farms is *podere*, and in appearance they resemble what we imagine to have been the first attempts at agriculture, every thing being cultivated in patches. A *podere* generally contains six or eight acres ; they are hedged in ; in the neighbourhood of Leghorn the hedges are of myrtle, which, like all evergreens, are fragrant even when out of bloom ; and when in flower, their spicy odour gives a taste of Indian climes. Little hay is raised, for the Indian

corn is much used in its stead ; so after the spring-labour of pruning the vines, the wheat is the first harvest. The wheat-fields are planted with rows of trees, to which the vines cling ; and the shade, far from being detrimental, is considered a shelter for the crops. When the wheat is gathered in, and threshed on the threshing-floor, constructed in the open air, with all the care Virgil advises, the land is again sown with Indian corn. This is a beautiful harvest. The men cut it down, and the women and children sit round the threshing-floor, taking the grain from the pod, loosening it from the stalk, and spreading it in the sun, till its paler orange hue deepens to a fiery glow. The vintage follows—an universal feast. The men pluck the fruit from the trees, which is received and deposited in the vats by the women and children. The plucking of the olives brings up the rear of their *raccolte*. But it is not the mere sowing, and the harvests that demand labour ; the long droughts force them to construct sluices through every part of the *podere*, and the water-wheel is for ever at work to irrigate the land ; nature the while is busy and noisy. During the day the loud cicale, with ceaseless chirp, fill the air with sound, and in the evening the fire-flies come out from the myrtle hedges, and form a thousand changing and flashing constellations on the green corn-fields, which is their favourite resort. Meanwhile the *contadini* cheer themselves with songs, either singly, in harmony, or in response. One of the favourite games among the Tuscan peasants (we have forgotten the name of it), especially during the time of the vintage, is singularly poetic. A man on one tree, will challenge another perched afar off, calling out the name of a flower ; the challenged responds with an extempore couplet, sometimes founded on the metaphoric meaning attached, of the flower's name, sometimes given at random, and then returns the challenge by naming another flower, which is replied to in the same manner. We have unluckily preserved but two of these impromptus, and they are both on the same flower :—

Fior di cent' erbe !  
Non bimbi voglion bene a loro mamma,  
Quanto io alla speranza mia.

Fior di cent' erbe !  
Se un sospiro avesse la parola,  
Quanto bell' ambasciator sarebbe.

It is this exhaustless fertility that makes Italy a paradise, and affords never-ending variety of object to the residents. With us nature is parsimonious, if not frugal ; her very magnificence is that of a well-regulated mansion, where, though great show is made, there is no waste. In Italy she superabounds,

overflows, and, like a prodigal, casts immense treasures to the winds. This abundance is not displayed alone in inanimate nature; but among the Italians themselves there exist rich stores of talent, useless it is true, in the general sense of the term, which are displayed to the delight of their countrymen and astonishment of travellers. We cannot give a better idea of what we mean than by instancing their improvisatori, who pour out, as a cataract does water, poetic imagery and language; but except that the genial moisture somewhat fertilizes the near bordering banks, it reaches the ocean of oblivion, leaving no trace behind. Sgricci may be given as an example. He is well read, and profoundly versed in the works of the Greek metaphysicians and historians, as well as their poets. The mode of his improvisation is wonderful, and different from the usual style of these exhibitions. When he comes on the stage, his personal appearance, animated countenance, and regular features, lost in his daily costume, strike you with admiration. It is the custom for those who choose, to leave at the door of the theatre a slip of paper, on which is written a subject for a tragic drama. We were present at three of these performances. The subject of the first was "Ifegenia in Tauride;" the plan of the tragedy was closely copied from Euripides; but the words and poetry were his own, and we were continually startled by images of dazzling beauty, and a flow of language which never degenerated into mere words, but, on the contrary, was instinct with energy and pathos.

Inez de Castro was a tragedy he gave at Lucca, the subject being imposed on him by the arch-duchess, who was in the theatre. When towards the end, he caused the audience to understand that the prince, Don Pedro, husband of Inez, drawing a curtain, suddenly displays to his father the bodies of his murdered wife and children, the same thrill was felt, nay, far greater than if the real mock bodies (the implied bull must be excused) had been brought forward. His words were so living, that you saw them, not decked out with stage trickery, but in the true livery of death, livid, stiff, and cold. The last tragedy we heard was the Death of Hector.\* In it you were trans-

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\* The same subject was subsequently given him at Turin, and a shorthand writer took it down, and it was published. The plot resembled the one we heard, otherwise it struck us as inferior in poetry, and was certainly a very different production. The plot is not the least admirable part of these impromptu dramas. When a novel subject is given, it is of course arranged during the heat of inspiration and delivery; it never lags; the interest is continually increasing, and the scenes grow naturally from each other. They are shorter than our five-act plays, being, on the Greek plan, interspersed with choruses.



ported within the walls of Troy, and heard mad Cassandra denouncing its fall. Speaking afterwards to the poet, he said that he did not remember much about any other part ; but he had a vivid recollection that when he poured forth the ravings of the prophetess, he no longer saw the theatre ; Troy was around him ; Troy burning ; Priam stabbed at his altar, and the women dragged lamenting away in chains. From all this magical creation of talent, what resulted ? The poet himself forgets all his former imaginations, and is hurried on to create fresh imagery, while the effects of his former inspirations are borne away with the breath that uttered them, never again to be recalled—

“ Nec revocare situs, aut jungere carmina curat.”

For the rest, he acquires the enthusiastic praises of some few of the more refined of his countrymen—for Sgricci's poetry is of too classic and elevated a nature to please the multitude—and the animated recollection of those few English who understand sufficient Italian to appreciate his genius.

Italy is an exhaustless theme to those who, having been long residents there, are familiar with its novel and beautiful aspect. But our limits warn us not to pursue our digression, and oblige us to turn our attention to those other works whose titles head our article. We shall not dilate much upon them ; for the scope of our present writing is to treat of Italy, and as these volumes do not bear the same perfect Italian stamp as those of lord Normanby, they may be passed more cursorily over.

“ Continental Adventures” are the production of the very clever authoress of “ Rome in the Nineteenth Century.” This latter publication is an inestimable guide to all who visit the Eternal City, and even to those at home, more than any other work on the same subject, gives a faithful account of the wonders of that metropolis of the world. “ Continental Adventures” is on another and a worse plan. It mixes real scenes with fictitious ones, not in the style of the “ English in Italy,” where the manners of the natives form the ground-work of the tales, but in the mode of a common novel—a novel of the day : a lady and her lover, the baulks to love, the rival, and the denouement, all English : and the “ Continental Adventures” are merely, that while the hero and heroine are *progressing* towards the fulfilment of their hopes, they ramble about Switzerland, and the lady, in particular, endures so many perils, that we really think that no female in real life could have undergone them without becoming prematurely grey. She commences by breaking her collar-bone and two of her fingers ;

is twice in imminent danger of perishing in snow-drifts ; narrowly escapes tumbling down a precipice ; is nearly shot by a robber in one of the Alpine Ravines ; and last, is carried away by Italian banditti, at whose hands death was the least evil she expected, and from whom she saves herself by the administration of a piece of opium, which she had fortunately put into her *pocket* the day before. The story of the novel is commonplace enough, and the gordian knot, tied just at the end, then to be cut, is confused, and even displeasing. The discovery of relationship in a forbidden degree between lovers is always disagreeable ; and the mode by which these lovers are found to be related, disfiguring the sacred associations always blended with a mother's name, is even revolting. The authoress is evidently nearly related to Scotland, though we believe she is not Scotch. She has a taste for humour, and her comedy is generally very entertaining, though she too often falls into a comedian's worst fault, of wire-drawing a comic scene, till it becomes tedious ; and once or twice she is guilty of giving them for their foundation subjects hardly admissible on the score of propriety. The book is, however, written with great spirit, and is very entertaining. Some of the scenes of real life are sketched with fidelity and true humour. The C  che-d'Eau on the Rhone is one of these, and the Reverend Saunders M'Muckleman is throughout a genuine comic character. Her descriptions of scenery are, however, the best part of the book ; they are varied and faithful. We select one, as a specimen of the style in which they are executed : —

‘ The glaciers of the Aar, which we visited from the Grimsel, present a scene which I am convinced the world cannot equal ; which none who have beheld it can ever forget, and none who have not seen it can ever conceive. I will not mock you with a futile attempt at description. You cannot picture the scene ; but you can form some idea of the awe-struck astonishment which filled our minds, when, after surmounting all the difficulties of the way, we found ourselves standing amidst a world of ice, extending around, beneath, above us ; far beyond where the straining sight, in every direction, vainly sought to follow the interminable frozen leagues of glaciers, propped up in towering pyramids or shapeless heaps, or opening into yawning gulphs and unfathomable fissures. The tremendous barren rocks and mountains of the impenetrable Alps, amidst which the terrific Finsteraarhorn reared his granitic pyramid of fourteen thousand feet, appeared alone amidst this world of desolation. Eternal and boundless wastes of ice, naked and inaccessible mountains of rock, which had stood unchanged and untrodden from creation, were the only objects which met our view. Hitherto, with all we had seen of desolation and horror, there was some contrast, some relief. The glaciers of Chamouni are bordered by glowing harvests ; the

glaciers of Grindelwald are bounded by its romantic vale; the glaciers of the Schiedeck shine forth amidst its majestic woods. Even among the savage rocks and torrents of the Grimsel, though animated life is seen no more, the drooping birch and feathery larch protrude their storm-beaten branches from the crevices of the precipices; and the lonely pine-tree is seen on high, where no hand can ever reach it. But here there is no trace of vegetation, no blade of grass, no bush, no tree; no spreading weed or creeping lichen invades the cold still desolation of the icy desert. It is the death of nature. We seemed placed in a creation in which there is no principle of life; translated to another orb, where existence is extinct, and where death, unresisted, holds his terrific reign. The only sound which meets the ear is that of the loud detonation of the ice, as it burst open into new abysses, with the crash of thunder, and reverberates from the wild rocks like the voice of the mountain storms.'—Vol. ii. p. 134.

These volumes contain the best description and guide to Switzerland that we have ever seen, but Italy makes only a small portion of them. We have some animated scenes on the romantic lake of Como, and visit, with the personages of the novel, the galleries and palaces of Florence; but a guide-book and a romance form an incongruous mixture, and we certainly wish that they should be separated in future.

“The Diary of an Ennuyée,” is a very well written and interesting imposture. Well written and interesting it is true, but still an imposture, and that not of a kind which is admissible. The very laws of *cavalier serventeism* in Italy are not more delicate, subtle, and yet strict, than those of fiction, and they are transgressed in the volume before us. A fiction must contain no glaring improbability, and yet it must never divest itself of a certain idealism, which forms its chief beauty. Once in Italy we saw a drama, which was any thing but dramatic, and we were reminded of it by the pages of the book before us. The hero was an English Milord who had a diseased arm; no medical attendant was able to afford him any relief; one doctor, one alone could cure this otherwise mortal disorder; but this doctor refused to exert his skill until his friend *Jenkisson*, who was imprisoned in the Tower under suspicion of treasonable practices, should be liberated by the sick Milord, who was also a secretary of state; but Milord was too patriotic to sacrifice public good to his private advantage. Miledi, in the mean time, ran from her husband to the doctor, adjuring the one and supplicating the other, while Milord, with his bound-up arm, groaning when on the stage, and shrieking while behind it, formed a most distressing foreground to the picture. You actually felt for the poor man; and a greater verity of scenic illusion (such as it was) was produced by that bandaged arm, and the moaning and crippled action of the patient than Kean or Pasta



usually effect in their portentous identifications with ideal woe. That our readers may not be left in a painful suspense, we proceed to inform them, that when Milord was at his last gasp, and the doctor stood unmoved in the midst of his kneeling and supplicating relatives, Jenkisson himself, whose innocence had been discovered, appeared ; a general reconciliation took place ; and the doctor was proceeding to work a cure, when the curtain fell.

We do not wish to cast an air of ridicule over the volume before us, which we read, really believing in it as we read, with great interest ; but having discovered that the sensitive, heart-broken, dying, dead diarist is a fictitious personage, we are angry at the trick of art that excited our real sympathy ; and we were led to a conviction that the circumstances that demand our deepest interest as a reality, are, when feigned, not of an high order of idealism, and consequently the fraud being discovered, the fictitious part of the book falls below the usual rate of novel interest.

But to leave this criticism, or hypercriticism, let us advert to the real merits of the work. It is written with great spirit and great enthusiasm : the descriptions are vivid, the anecdotes entertaining, and the whole style displays intelligence and feeling. The few traits recorded of Italian manners are felicitously seized, and the English party is well sketched, from the quiet, retiring, suffering, ideal authoress, to the blundering and vivacious L——, who may stand as a specimen of a whole tribe of English rovers in Italy. We turn over the pages to find an extract, which our limits will not permit us to make long. We hesitated between the account of the eruption of Vesuvius, the description of the improvisatore Sestini, the Capanna and Gesu Bambino, always exhibited in the convents during Christmas, the Diarist's Adventure with the Governor of Lerici—between these and the following one, which we have fixed upon as one of the most interesting anecdotes in the book :—

‘ Last night we had a numerous party, and Signor P—— and his daughter came to sing. She is a private singer of great talent, and came attended by her lover, or her *fiancé*, who, according to the Italian custom, attends his mistress every where during the few weeks which precede their marriage. He is a young artist, a favourite pupil of Camuccini, and of very quiet, unobtrusive manners. La P. has the misfortune to be plain ; her features are irregular, her complexion of a sickly paleness, and though her eyes are large and dark, they appeared totally devoid of lustre and expression. Her plainness, the bad taste of her dress, her awkward figure, and her timid and embarrassed deportment, all furnished matter of amusement and observation to some young people (English of course), whose propensities for *quizzing* exceeded their good breeding and good nature. Though La P. does not under-

stand a word of either French or English, I thought she could not mistake the significant looks and whispers of which she was the object, and I was in pain for her and for her modest lover. I drew my chair to the piano, and tried to divert her attention, by keeping her in conversation, but could get no farther than a few questions, which were answered in monosyllables. At length she sang, and sang divinely; I found the pale automaton had a soul as well as a voice. After giving us with faultless execution, as well as great expression, some of Rossini's finest songs, she sang the beautiful and difficult cavatina in *Otello*, "*Assisa al piè d' un salice*," with the most enchanting style and pathos, and then stood as unmoved as a statue, while the company applauded loud and long. A moment afterwards, as she stooped to take up a music-book, her lover, who had edged himself by degrees from the door to the piano, bent his head too, and murmured, in a low voice, but with the most passionate accent, "O, brava, brava, cara!" She replied only by a look, but it was such a look! I never saw a human countenance so entirely, so instantaneously changed in character: the vacant eyes kindled and beamed with tenderness: the pale cheek glowed, and a bright smile playing round her mouth, just parted her lips sufficiently to discover a set of teeth like pearls. I could have called her at that moment beautiful; but the change was as transient as sudden; it passed like a gleam of light over her face, and vanished, and by the time the book was placed on the desk, she looked as plain, as stupid, and statue-like as ever. I was the only person who witnessed this little bye-scene, and it gave me pleasant thoughts and interest for the rest of the evening."—p. 207.

We hope to heaven all this is true, and not false as the *Ennuyée* herself. One thing alone at all atones for her deception. We longed, while reading her work, to thank the fair authoress for reviving many a half-forgotten Italian scene, and for shedding a beautiful light over many a favourite spot; we regretted that our gratitude was due to the dead; but since the writer lives, we no longer have this painful debt heavy at our hearts, and we pay it with the praise she entirely merits.

We shall hail with pleasure any new production from the pen of any one of the writers of these works; and we were not a little gratified at the announcement of Lord Normanby's "*Historiettes*." We hope that in these he has a little abated an offensive display of superiority of rank. It is unworthy of the enlightened heir of a peerage thus to prize himself above nine-tenths of his readers on account of his adventitious advantages, and very absurd to shew it. We remember, in former times, that this nobleman had a warm love for talent, though its possessor was unendowed either with rank or fashion; we hope the generous feeling is not dead. His lordship has too much real talent not to feel and appreciate the nobility of nature as well as that of birth, and some indication of such a feeling would give a grace to his productions, in which, at present, they are deficient.

ART. V.—*Report from the Select Committee on Emigration from the United Kingdom. Ordered by the House of Commons to be printed, 26th May, 1826.*

MANY years have not elapsed since it was first discovered that a country did not always grow richer in proportion to the increased number of its inhabitants. A few years have not elapsed since this doctrine, having been explained and illustrated by various writers, and in various forms, at length obtained the assent of the greater number of well-informed and thinking men. Among the uninformed and unreflecting, it has not even yet made its way. These still continue to urge the constantly-repeated objection—How can an excess of population exist where there is any land uncultivated, and there is land uncultivated in every country on the surface of the globe? The answer is—That by an excess of population in any country, is meant, not an excess relatively to land, but an excess relatively to the means of productive employment—a number greater than the means of the country can employ, with a return of produce greater than the expenditure of subsistence, materials, and implements, in one word, of capital. By this test, although it be true that there is much land within this empire which remains uncultivated, it is as unquestionably true, that the population is excessive, or (whatever other expression may be used) it is in that state in which a considerable proportion of the able-bodied workmen are unable to procure a full and certain subsistence. And this is the simple and only fact, which, for any practical purpose, needs to be ascertained.

This plain and decisive answer, however, to those who are determined to look for the causes of the distressed condition of the great mass of the people any where but where it is to be found, might have been repeated again and again for some time longer, without a much more rapid success in removing the ground of controversy than was indicated by the gradual progress which it has hitherto made, if it had not lately met with new and powerful confirmation and assistance, and that from a most unexpected quarter. In the very first page in the Report of the Committee of the House of Commons on Emigration, the very first paragraph is the passage which follows :—

‘ Your Committee are induced to consider that the following important facts have been established by the evidence which they have collected for the information of the House.

‘ First, That there are extensive districts in Ireland, and districts in England and Scotland, where *the population is, at the present moment,*



*redundant ; in other words, where there exists a very considerable proportion of able-bodied and active labourers, beyond that number to which any existing demand for labour can afford employment. That the effect of this redundancy is not only to reduce a part of this population to a great degree of destitution and misery, but also to deteriorate the general condition of the labouring classes. That by its producing a supply of labour in excess, as compared with the demand, the wages of labour are necessarily reduced to a minimum, which is utterly insufficient to supply that population with those means of support and subsistence which are necessary to secure a healthy and satisfactory condition of the community.'*

Here is a most complete and distinct recognition of the important truth, that in Great Britain and Ireland a redundancy of population does exist ; and that to this redundancy is to be ascribed the lamentable condition of the greater portion of the labouring classes in those countries. This recognition is offered, too, as the deliberate result of the inquiries of a Committee of the House of Commons : a committee appointed for the express purpose of inquiring into the means whereby the distresses of the labouring classes might be relieved ; and coming to the conclusion, that no relief can be effectual which is not grounded upon the principle of narrowing the competition for labour.

We have arrived, then, at a marked epoch in the inquiries having for their object the amelioration of the condition of the great mass of the people. A body of men selected by and from the legislature, for the special purpose of pursuing one branch of these inquiries, and by whose deliberate opinion the legislature will, probably, be in no small degree guided, have pointed out the *cause* of the evil, the removal of which is aimed at. Henceforward, therefore, the field of controversy will be narrowed ; henceforward we may expect that among all whose opinion is worth attending to, the cause of the evil will be regarded as an ascertained fact ; and tendency to remove that cause will be the test by which every measure, or proposed measure, of relief, emanating from the same, or from any other quarter, will be tried.

The ground being thus cleared before us, we proceed to try the measure, namely, Emigration, which is proposed in this Report, and to try it by the test which the Report itself has supplied.

In judging how far the plan of Emigration recommended by the Committee is adapted to its end, the relief of a redundant population, we cannot be guided by the analogy of any other emigration, ancient or modern, which has been designed to relieve, or has, in fact, relieved, a redundancy of population.

Of the ancient colonies, the Roman were mostly planted for a purely political purpose ; either that of extending the territory and securing the frontiers of the republic, or of allaying the discontent of the citizens, when they endeavoured to assert, by an Agrarian law, their right to a share in the conquered lands. Of the free citizens, and not of the slaves, who formed the lowest class in the state, the Roman colonies were constituted ; nor were the Greek colonies composed of the lowest and poorest portions of society, but rather of the middle and higher classes ; of persons who had stock sufficient to build or to hire shipping, and to lay in a supply of subsistence sufficient to last until their new possessions became productive. If there were no other means of proving this fact, the rapid and brilliant rise of most of those colonies to wealth and power, would afford sufficient grounds for concluding that a quantity of capital, in those times considerable, must have been employed in their foundation. Of the most successful emigrations in modern times, it ought surely to be well known that they have consisted, for the most part, not of ordinary working people, but of owners of small capitals, who have sought in another country for a better government, or more fertile sources of production, than they could enjoy in their own.

Specific experience, therefore, affords us no aid in judging of the scheme of emigration proposed by the Committee. And when we examine it by general reasoning, together with all its accompanying circumstances, and with all its accompanying provisions and recommendations, it seems to us unable to bear the application of the test which we must apply to it.

Although, upon the face of it, it holds forth prospects not less bright of efficiency to its end, although in its means it exhibits not less feasibility, than any other design that we have hitherto met with for relieving the distress of the population of the empire generally, and of Ireland more especially ; and however applicable it may be as a temporary expedient for a few limited and special objects, we cannot but see in the plan of emigration, when applied to that larger purpose, the same fundamental error which characterizes the other plans which it has replaced. It does not reach the *causes* of the evil which it is designed to remove. But we must first put the reader in possession of the circumstances which have led to the production of this Report, and furnish him with an outline of its contents.

Many of our readers are already aware, either from the evidence which was given before the parliamentary committees upon the state of Ireland in 1824 and 1825, or from the general

notoriety of the fact, that the rapid and enormous increase of the population in Ireland has exhibited itself, of late years, in many striking forms, and in one among others not the least striking, in the minute subdivision of the land: that this subdivision has proceeded to such an extent, or, in other words, farms have become so small, that the landlords now find themselves unable to obtain so large a rent from their estates as they could have done if the subdivision had been less minute, and the farms larger. In order, therefore, the more easily to consolidate their farms, they have become extremely desirous to get rid of the redundant portion of their peasant-tenantry. Whether the Irish landlords would have discovered that the population of Ireland was redundant, unless the redundancy had affected their rental, we will not inquire. But it has somehow happened that the emigration scheme has closely followed the manifestation of a desire on the part of the landlords to clear their estates of the superabundant tenantry.

In order to ascertain the probable expense, and to obtain other information with respect to the general feasibility, of an emigration from Ireland, which it was thought could not be so safely carried into effect without an actual experiment, the government, in 1823, and again in 1825, collected a number amounting in the two years to about 2,500 persons, out of the most destitute peasantry of the South of Ireland, transported them to Canada, and located them upon grants of land. The expense per head, of man, woman, and child, including freight and food, conveyance from Quebec to the place of location, and tools, stock, &c. for their new settlements, was found to amount to about 22*l.* 10*s.* on the average of the two expeditions.\*

It was thought, however, by the advocates of emigration, that this expense might be considerably reduced, or even that, by certain arrangements, the emigration might be made to pay its own expenses. It was deemed necessary also, that the most accurate inquiries should be instituted respecting the utility and the feasibility of emigration on that large scale which experiments alone could not guarantee, and for which so large a contribution from the national funds was likely, in the first instance, to be required.

The Emigration Committee was accordingly appointed. A

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\* *Vide* Evidence of R. J. Wilmot Horton, esq., Report of Commons, Committee on the State of Ireland, 1825; and the same gentleman's speech upon his motion for the appointment of the Emigration Committee, 14th March, 1826.



most interesting collection of evidence has been the result of their labours ; and if its whole value consisted in the information afforded to private emigrants, and to the public generally, concerning the present state of our colonies, considerable praise would still be due to those who authorized, and to those who prosecuted, the inquiry.

The following paragraph contains the first fundamental positions of the Committee, with but a slight abbreviation of their actual language :—

‘ The Committee consider it to have been established by the evidence which they have collected, 1st, That there are extensive districts in Ireland, and districts in England and Scotland, where the population is at the present moment redundant. 2nd, That in the British colonies in North America, at the Cape of Good Hope, and in New South Wales and Van Diemen’s Land, there are tracts of unappropriated land of the most fertile quality, capable of receiving and subsisting any proportion of the redundant population of this country, for whose conveyance thither means could be found at any time, present or future. 3rd, That the unemployed labourer at home necessarily consumes more than he produces, and the national wealth is to that extent diminished. When transferred to new countries, where soil of the highest degree of fertility is unappropriated, and where the rate of wages is consequently high, he produces infinitely more than he consumes ; and *if the colonies are to be considered as integral parts of the nation at large*, the national wealth will be increased by the change.’

A very important “if,” to that part of the empire which has to pay, in the first instance, the whole expense of the emigration. To this “if,” another “if” must be added ; *if* the expense of the emigration is not greater than the labourer would have consumed at home, or than he will ever repay as a settler.

The Report continues :—

‘ If the foregoing position be correct, your Committee feel justified in recommending the subject of emigration to the most serious and deliberate consideration of the House, as an obvious and immediate measure for correcting, in some degree, this redundancy of population, and for mitigating the numerous evils which appear to result from its existence.’

The Committee abstain from informing us on what scale they contemplate that this measure should be carried into effect. Indeed in page 10 they expressly say, that they abstain from expressing any opinion whatever on this point : “ Any proportion of the redundant population, for whose conveyance means could be found :” Such are their words. Let us, however, attempt to form some definite conception, what proportion it would be necessary to remove in the first instance and imme-

diately, in order to produce any sensible effect in diminishing that excessive supply of labour which reduces wages and the condition of the labourers to the lowest term consistent with the preservation of their existence and the continuance of their race. We will confine our attention to Ireland. In that country, the number of persons, either actually in a state of mendicancy, or having no assured means of subsistence, and relying on the occasional charity of their friends or relations, is estimated at about *one million*. Let us allow, that of these people if one-half (500,000) were removed, the absence of their competition for employment would considerably raise the wages, and considerably improve the condition, not only of the other 500,000 destitute persons, but of the whole of the labouring classes. This is more, probably, than ought to be conceded: at all events, we cannot believe that any one acquainted with the condition of the Irish peasantry would assert that the removal of any smaller number than the one we have mentioned would have any perceptible effect. Now, have the Committee contemplated the removal of so large a number as this from Ireland alone, at an expense amounting, on their own estimate, of £20 per head, to ten millions sterling? If they do not contemplate so large an emigration, their recommendation breaks down, from its own inherent insufficiency. If they do, why have they not stated the full extent of their views? unless it be, because they are apprehensive that the legislature and the public will be altogether disinclined to listen to any proposal requiring so enormous an outlay of the national capital, and -because they have no sufficient arguments to overcome so reasonable a disinclination.

Admitting, however, for a moment, the impossible case, as it appears to us, that 500,000 persons could be removed within a period of time sufficiently short to produce the immediate and extensive effect desired; by what means, we demand, is it proposed to prevent the place of the numbers removed by emigration, from being speedily filled up by the multiplication of the numbers which remain, placed now, by the supposition, in a situation more favourable than before to multiplication? For, to conceive that constant emigration could take off the whole of the annual increase of seven millions of people, being about 300,000 (at the rate at which for the last thirty years the Irish people have multiplied, and deducting the numbers necessary to replace the annual deaths), we cannot believe could have ever entered into the head of any rational being.

This objection the Committee have anticipated in pages 9 and 10 of the Report. And how have they met it? They have *not*

met it, if to meet an objection be to make a direct answer to it. They merely remark, that it induced them "to direct their inquiries to the consideration of such collateral measures, both of a legislative and of a practical nature, as might be calculated to repress, if not to prevent, that tendency" [of population to increase faster than capital]: "they have, therefore, pursued their inquiries very extensively, and have been fortunate enough to collect very valuable evidence on this branch of the subject."

It is not an unfair inference from this passage, that the Committee have not been able to arrive at any decisive and tangible result from their inquiries. If they had, so far from appearing desirous to avoid stating that result, it can hardly be imagined that they would not have been eager to set it in the clearest light, and to give it the fullest development; so essential would it be to the success, so decisive is its absence of the failure, of their scheme. The Committee do not even make a marginal reference to the evidence to which the above passage alludes; and we think the labour of extracting and commenting upon that evidence may be spared. It is sufficient to remark, after the perusal of the whole of the evidence which has been taken before them, that the inquiries bearing upon this all-important object seem to us neither as extensive nor as definite as the inquiries directed to many other objects of far less importance; and that, even to the inquiries which were made, the answers were generally very vague and very unsatisfactory; of which one sign may be taken as decisive, that they scarcely in any instance contemplate the repression of the present prevalence of inconsiderate marriages among the labouring classes, both in England and Ireland.\*

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\* We except the evidence of Mr. Hodges, the Chairman of the West Kent Quarter Sessions, who seems to be well aware of the necessity of discouraging this sort of improvidence. This gentleman's suggestion of the expediency of re-enacting the statute of the 31st Eliz., which provided that no new cottage should be erected to which there were not four acres of land attached, or of framing a new statute *mutatis mutandis* upon the same principle, in order to impose some check upon the breeding of mere paupers, we take to be nearly the most important suggestion in the Report. How to contrive the provisions of such a statute, in such a manner, that they should not encroach more upon the free disposition of capital and labour than would be absolutely necessary to the attainment of the end in view; and what would be the utmost extent of the probable efficiency to that end, of any system of regulations consistent with the general convenience of the community; are questions on which it would require a whole article, and that a long one, to arrive at any thing like an accurate conclusion.

In Ireland, the landlords have some motives, and some power, to check the further increase of the population, by preventing the erection of



But, although there is little reason to expect that the abstraction of the emigrants would permanently, or considerably, ameliorate the condition of their fellow-labourers at home, yet if they could be removed without expense, their removal might, upon the whole, be productive of a balance of good. The Committee contemplate this as possible :—

‘ The Committee also consider that it would be in the highest degree desirable, that any expense incurred for the purpose of emigration, to be contributed from national funds, should be ultimately repaid; so that no gratuitous expenditure should be necessary, except in cases which might justifiably be made exceptions to the general rule.’

Here is the grand feature of the Committee’s plan: the condition upon which the expediency of emigration, as a national measure, entirely depends. If it can be clearly demonstrated, that the expenses of sending out emigrants in the first instance can be repaid to the state, either by persons and bodies of persons interested in getting rid of the redundant portion of the population, or by the emigrants themselves, there would be manifestly a national gain from emigration. The condition of the emigrants themselves would be altered for the better, and by their abstraction, some relief, although slight and temporary, would be afforded to the rest of the population, until the places of the former were filled up by the increase of the latter. These advantages would not be worth purchasing by the *permanent* sacrifice of a large portion of the national capital, but they might be more than a compensation for a *temporary* outlay, to be finally repaid. The Committee, therefore, proceed to state the direction and the result of the inquiries which they have instituted, to ascertain the possibility of fulfilling that most important condition.

Having taken into consideration various circumstances attending the experimental emigration of 1823, which took place at an expense of 22*l.* 1*s.* 6*d.* per head, or 88*l.* per family of four persons, the Committee consider that some reduction might, in any future expedition, be made, in the various items of expense, so as to lower the charge on any future emigration to Upper Canada, to 20*l.* per head, or 80*l.* per family of four persons [p. 6]. They also state from the evidence taken before them, that any future emigration to Lower Canada, to New Brunswick, to Nova Scotia, and to Prince

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cabins on their estates. To ascertain what those motives and that power amount to, we may, hereafter, make some attempt, in an article on Ireland. But, in this attempt, the evidence of the Irish gentlemen in this Report will not assist us much.

Edward's Island [*ib.*] would likewise be attended with diminished expense. The Report continues,

‘ With respect to New South Wales and Van Diemen's Land, the distance naturally creating so much additional expense in the passage, the calculations applicable to North America, in no degree whatever apply to these colonies. With respect to the Cape, the only emigration contemplated has been an emigration of labourers rather than of colonists ; which equally makes the calculation of Upper Canada inapplicable to that colony. Your Committee have supposed that the sum of 80*l.* could be raised on annuity of 3*l.* 10*s.* 9*d.* for sixty years, interest being taken at four per cent ; and, under the supposition that such an annuity could be raised, their inquiries were directed to the question, whether, supposing that the payment of such annuity for the first seven years were secured, the situation of the emigrant head of a family would be such as to enable him to undertake the payment of this annuity for the remainder of the period, in liquidation of the debt contracted by him for his removal from the mother country to the colony, and this without any prejudice or inconvenience to himself ; it being provided, as a necessary collateral arrangement, that he might redeem that annuity at any time on the common principles of redemption, thereby freeing his land from the charges which otherwise would contingently attach to it.

‘ An examination of the evidence before your Committee will show that a large majority of the evidence which has been obtained upon this subject, is in favour of such a repayment being practicable, and that there would be little difficulty in collecting it, provided it were to be clearly explained that it was in the nature of a repayment of a debt contracted, rather than in the character of rent of land.’

This last provision is highly important, or rather indispensably necessary, to facilitate the collection of any payment whatever from emigrants to the North American colonies : so strong is the feeling, as it appears from several of the witnesses who exist there, against any payment which bears the name of rent, quit-rent, &c. as it is conceived to interfere with the object of the settler's desire and ambition, a freehold property in the land. But still, from a careful perusal of the evidence, we cannot entirely subscribe to the opinion of the Committee, that there would be little difficulty in collecting the stated annuity. First, as to the *ability* of the settler to pay that annuity. It is perfectly true all the Canadian witnesses are of opinion, that settlers, under the circumstances of those in the emigration of 1823 and 1825, would, with a few casual exceptions, be able, after the interval of seven years from their location, to pay to the governor annually a proportion of produce which, if they could always secure a market, would be fully equivalent to 3*l.* 10*s.* 9*d.*; and certainly the greater

number of them consider that they *will* be able to secure a market. But Mr. Felton, a legislative councillor in the province of Lower Canada, who is well acquainted with the details of the history and of the actual state of the settlements in his own province, considers that, on most of the lands in that province which it is in the power of the crown to grant, there will be a great difficulty in bringing the produce to a market [p. 26]. Mr. Hayes, of Marmora, in Upper Canada, seems to us to speak rather hypothetically respecting the possibility of bringing produce to a market [p. 32]. And colonel Cockburn, the superintendant of the military settlements in Upper Canada, expresses a very decided opinion, that a settler in that province will not be able, after seven years from his location, to command such a market for produce, as will enable him to repay in money any part of the expense incurred in establishing him upon his land.\* The same gentleman's evidence throws doubt, not only upon the ability but upon the willingness of settlers to repay the expense incurred on their account. In the analogous case of a government loan of small amount to the military settlers upon promise of repayment, he states, that it was found utterly impossible to collect the debts.

Some of the witnesses whose opinion favours the probability that the settlers will be willing, as well as able, to pay the proposed sum annually, seem to rely upon the fact of the punctuality with which settlers usually discharge the debts due by them to individual capitalists, on account of money lent them wherewith to establish themselves on their land.† We are so far from doubting this fact, that even before we had specific evidence of it, we should have predicted it from the usual excellent morality of the working classes of all countries, and not less of the Irish, in matters of contract debts, where the law or their masters have not completely demoralized their minds, and destroyed their usual good faith; but we *do* doubt whether the case of a debt to the government would appear in the same light as a debt to individuals, to the minds of those settlers, or indeed to the minds of any ordinary set of men:—whether the payment of the former, under whatever name demanded, would not still be regarded as a tax, which it were no great breach of duty to evade. And, we confess, it appears to us, that this doubt receives much additional weight from the statement of colonel Cockburn (already quoted) with respect to the military settlers.

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\* *Vide* Report, p. 149.

† *Vide* Evidence of H. J. Boulton, Esq. p. 14, *et seq.*; and of R. J. Uniacke, Esq. p. 41, of the Report.



Even if both the ability and the willingness of the settlers to pay the proposed sums were clearly made out, we have still to learn by what method of collection these small sums, due by each individual of such numerous bodies of men, scattered over such a wide surface of country, can be collected by any method of collection which would not, by its expenses, consume a very large proportion of the amount realized.

But leaving this point, as with our present means of information we must leave it, in abeyance, we proceed to the second principal head of the Committee's investigation:—

‘The inquiries of your Committee were then directed to the consideration, whether the payment of the annuity for the first period, namely, seven years, could be obtained from those parties at home, who were especially benefitted by the removal of the redundant population.\*

‘In Ireland nothing in the nature of a poor-rate exists by law; and

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\* ‘Your Committee feel it hardly necessary to observe, that the cases of England, Ireland, and Scotland, essentially differ from each other in this respect. In England, the poor-rate affords an immediate fund, which can be made applicable to the re-payment of any expense incurred for emigration; the evidence of Mr. Hodges, the chairman of the West-Kent quarter sessions, is so copious and satisfactory upon this subject, that your Committee have only to call the particular attention of the House to it; and although Mr. Hodges' observations are limited to a particular district in Kent and Sussex, it will be found that the principle will apply generally to any part of England, where a redundant population is found to exist.’

Mr. Hodges considers most of the parishes in his district to be so heavily burthened with their poor, that they will be ready to pay to government the sum necessary for transporting a portion of their population to Canada, and for that purpose to mortgage (if we may use that term) their poor-rates for the payment.

Mr. Chambers, the police-magistrate, on the other hand, thinks that the parishes of London, taken generally, will not adopt this arrangement. It is evident that this emigration, as applied to England, is a mere matter of private agreement between individual parishes with the government. The fund for repayment of the expenses already exists; the means of securing its application to the desired purpose, are obvious and easy.

With respect to emigration from Scotland, all that is said by the Committee is contained in the following short sentence, following the paragraph which we have last quoted:—

‘In Scotland a poor-rate exists, though so modified by local circumstances, and so varying in its practical execution, as to make it very doubtful whether it could be made applicable in the same manner as the English poor-rate for such repayment’ [of the expense of emigration].

In the conception of the Committee, emigration from England or from Scotland appears to be secondary in importance to emigration from Ireland. The extent of inquiries directed to further the latter object are out of all proportion to that of the other inquiries of the Committee, and occupy by far the largest space in the Report. Emigration from Ireland is, therefore, in this article, alone adverted to.

therefore voluntary consent, on the part of the proprietors of land, towards any contribution for the purpose of emigration must there be indispensable. Your Committee, therefore, beg to call the particular attention of the House to the very important evidence which they have received, with respect to the state of that country. It will be found uniformly stated in that evidence,' &c.

‘ There is one special point of view with respect to Ireland, to which your Committee feel it necessary to call the attention of the House ; it is that of a proprietor who is legally entitled to eject a redundant pauper population which has been surreptitiously introduced into his property, but who, at the same time that he feels that his own interest and that of his family are materially involved in the removal of this population, shrinks from the exercise of his undoubted legal right, from his dread of the consequences which must attach to them from their removal.

‘ In such a state of circumstances, which your Committee have reason to believe is not of unfrequent occurrence, they cannot but contemplate the public advantage that would be derived from enabling such a measure on the part of an individual to be carried into effect, to the mutual benefit of the party dispossessing, and of the party dispossessed ; and they entertain the most confident expectation, that a careful examination into this part of the subject, on the part of the Irish proprietors, will convince them that their own interests will be consulted by a contribution towards the expense of the emigration of such tenants.’—p. 8.

When we look, however, to the evidence before the Committee, we are very far from entertaining a confident expectation, or any expectation at all, that the Irish landlords, taken generally, will contribute towards the expense of emigration at the proposed rate, 3*l.* 10*s.* 9*d.* per annum for seven years for each family removed from their estates.

We can believe, without any hesitation, that some of the higher and wealthier class of the Irish proprietors, such, for instance, as Mr. Spring Rice, Mr. Becher, or lord Ennismore,\* will willingly come forward to bear their proportion of the expense of transporting to Canada the superfluous population on their estates, which, while it injures the productiveness of their lands, and interferes with their plans of agricultural improvement, they are still unwilling to use their full legal power to dispossess, and to incur, at once, the charge of inhumanity, by leaving some hundreds of persons suddenly destitute, and the danger of outrage upon their property, by reducing those persons to desperation.

But, from the evidence, it appears to us more than doubtful whether these motives will induce the larger number of the Irish landlords to accede to such a proposal as that which the Committee have suggested. Habituated, as most of the resi-

*Vide* the Evidence of these gentlemen in the Report.

dent Irish gentlemen are, to regard the peasantry as objects of contempt, if not of hatred and hostility, it is not probable that much consideration for the destitute condition of their ejected tenantry will stand long between them and their obvious interest. Actual facts are generally in accordance with this antecedent probability, as we have good reason to conclude, from the extensive ejectments which the Reports of the Parliamentary Committees on the State of Ireland prove to have been effected, and the miserable condition of the ejected tenantry. Doubtless, the property of landlords who have adopted the system of consolidating farms, and the property of the new tenants who have entered upon land from which the old tenants have been ejected, is often exposed to danger, from the insurrectionary combinations of the peasantry against the dispossession of old tenants. And this danger may have obliged them to proceed more gradually, cautiously, and mildly, than they would have done if that apprehension had been removed. But from the very circumstance of the number and extent of the outrages directed against the dispossession of old tenants, as detailed by the Irish witnesses, it may be inferred, that the fear of insurrectionary violence is not found to alter the determination of the landlords to clear their estates of the redundant population.

Whether they will consider the removal of the apprehension to be cheaply purchased at the price offered by the Committee, is the question. Much, of course, will depend upon the pecuniary circumstances, and upon the personal resolution, of different individuals: but, as respects the majority, the evidence forcibly leads us to answer that question in the negative.

Mr. Nimmo admits, that some middle landlords might "*possibly*" contribute, in order to get rid of superabundant tenants, but says, "I could hardly conceive that the landlord of himself, who conceives that he has a right to turn the tenant out of possession without any thing whatever, would consent to pay any thing towards it."—p. 194.

Mr. Gabbett, on the other hand, a country gentleman residing in the county of Limerick, considers that the land-owners would, and that the middlemen would not, contribute to the expenses of emigration [p. 129]. But he says, in p. 126, that he cannot speak generally on this point; and again, in p. 127, professes himself satisfied that the generality of Irish gentlemen would most willingly concur in an advance of money for the purpose of removing their tenants by emigration. Perhaps this witness's opinion may not be held to be of much weight on either side, but it may at least be set against Mr.



Nimmo's, both as respects the disposition of the middlemen and that of the land-owners.

The bishop of Limerick is asked,

‘Is your lordship of opinion that the landlords of the South of Ireland, whose properties would be immediately benefitted by the removal of this redundant population, would be disposed, in any manner, to contribute towards the expense of emigration?’—p. 148.

His answer is that of one whose wishes lean to the affirmative, and whose sound conviction would lead him to speak in the negative :—

‘I should hope that *ultimately* they might. I think there might be difficulties in the first instance; it might, I conceive, be apprehended, that in many places, at the commencement, there would be an unwillingness to engage for even a small annual payment. This unwillingness would grow out of many causes, particularly want of money,’ &c.

After the statement of this cause, we can dispense with the mention of any other.

Mr. Becher is asked,

‘Are you of opinion that the evil arising from a redundancy of population, whether produced by sub-letting or other cause, is such as to induce the landlords and the proprietors of land to concur, to a certain extent, in the expense necessary for removing, by means of emigration, a certain portion of this redundant population?’

His answer is,

‘I doubt the existence of that disposition, to any great extent, among the landlords with whom I am acquainted.’—p. 191.

Mr. Redmond O’Driscoll thinks that the landlords “would all concur in the advantage of emigration; but I doubt whether they would concur as to any mode of taxation upon themselves, if I may so say, to assist in that object.”—p. 196.

Lord Ennismore is asked,

‘The Committee would wish to know what sum you think the government might fairly expect the Irish landlords would be willing to be charged with as a payment, in order to assist the national expenditure that might be incurred in sending out the emigrants?—I am not prepared to say: I should be very glad to avail myself of the proposal that has been made to me some time ago’ [that he should pay 3*l.* 10*s.* annually for seven years, for each family of four persons removed from his estate: *vide* the next answer]: ‘but I cannot say whether other landlords would be anxious to avail themselves of it, but I think many would; I think the less the expense, the more would be inclined to avail themselves of it.’—p. 198.

This evidence of lord Ennismore is not the less really unfa-

vourable to the hope of obtaining any portion of the expenses of emigration from the pockets of the landlords, although he evidently wishes that he could make it favourable.

Mr. Odell, a gentleman resident in the county of Limerick, is asked,

‘Do you think that the landlords would be willing, under that system [of consolidating farms], to come forward with a given sum of money, for the removal of those persons whose removal is necessary to carry those plans into execution?—I should fear that the description of gentry alluded to there would shake their heads most wofully before they assented to that.’—p. 208. [And see Mr. Odell’s subsequent answers.]

Mr. Spring Rice is the only witness who believes (and he uses no more decided term than *belief*) that the landlords would be willing to contribute towards the expense of emigration. But he adds, that “in cases where there are intermediate tenants, with a greater number of middlemen, and supposing the efforts at emigration to be so extensive and successful as to lead to a better arrangement of farms and a more productive receipt from land, it will be observable, that while the sacrifice would be thrown upon the middleman, the benefit would be, to a very considerable extent, to the reversioner; and to meet the strict justice of the case, there ought to be a combined movement between the middleman and the reversioner, in proportion to their respective rights and interests; but such a combined movement is one which I conceive it would be quite impossible to calculate upon.”

He is then asked,

‘Where the landholders were disposed to contribute to emigration, do you conceive there are, in your part of the country, a great proportion of them who would be able to do so?—Not a very great proportion of them, unquestionably.’—p. 211.

Upon the evidence which we have here adduced respecting the inclination and pecuniary ability of the Irish landlords to defray a part of the expense, we may safely take up the position, that no contributions worth mentioning in a financial point of view can be expected from them towards meeting the charges of an emigration from Ireland, on the footing recommended by the Emigration Committee. That the public is, upon any ground of justice to the individuals, or of policy for its own sake, bound to take upon itself the expense of removing a burthen from the estates of the Irish landlords, of the existence of which their own neglect has been, in great part, the cause; a burthen to which all landed proprietors are subject who have

not taken the requisite precautions to avoid it, and which they, it appears, are not willing to assist with their purses in the removal of; is a proposition which would hardly bear being proposed, even to such a legislature as ours, and has not been suggested by the Committee itself.

If, therefore, the influential members of the Committee, and their coadjutors in the ministry and the legislature, remain constant to the principle which they have admitted in words, viz. that Emigration is justifiable as a national measure, only if it be unaccompanied with national expenditure; seeing the extreme doubtfulness (to use the mildest term) of the possibility of realizing one portion of the expense from the emigrants, and the almost complete certainty (for, after the above evidence, we conceive ourselves justified in esteeming the probability so high as to amount to ordinary moral certainty), that the other portion of the expense will not be contributed by the land-owners; the scheme of Emigration, as far as it respects Ireland, can hardly proceed much further into actual execution. But it is more than possible that the influential persons above alluded to, may not ultimately regulate their practical recommendations by the principles which they have admitted in words; and that the influence of the Irish landlords, together with apprehension of the consequences of permitting any considerable augmentation of the perfectly destitute portion of the population, may notwithstanding determine them to bring the scheme of Emigration from Ireland under the head of the "cases which might justifiably be made exceptions to the general rule." If our anticipations have any foundation, and the legislature should ultimately determine to transport a further number of the peasants of the South of Ireland to Canada; if this feeble attempt to carry away the overflowing of an evil of which it is not attempted to dry up the source, is to be persevered in; at all events we hope that the government will confine itself to defraying the expenses of the mere transport, and totally abandon all the further scheme of colonization: which, unless as a method of defraying the whole expense of the emigration (of which how little probability there is we have already seen) is a mere delusive waste of the public resources.

Of the expense incurred in settling the 568 Irish emigrants in 1823, the cost of transport constituted only one third: the rest was consumed in conveying the settlers to their assigned places in Upper Canada, supplying them with stock, and locating them on land. Taking the Committee's estimate of 20*l.* per head as covering the whole expense of emigration on their plan, including the expensive item of the superintendant's salary (amounting,



in the expedition of 1823, to 2 per cent),\* 6*l.* 15*s.* per head would more than cover the expense of mere transport, including, of course, provisions for the voyage. This estimate is not far from the actual expense incurred for the mere transport of the emigrants in the recent experiments, which was, in the expedition of 1823, 6*l.* 18*s.* per head; and in 1825 (owing to the rise of freights which had taken place in the interval), 16*s.* 10*d.* more, or 7*l.* 14*s.* 10*d.* per head.† But, in fact, some of the most important items in these estimates admit of being greatly reduced. In the first place, there is an item of 3*l.* 1*s.* 2*d.* in the former year, and of 3*l.* 1*s.* 8*d.* in the latter year (say for both years 3*l.* 1*s.* 6*d.* per head), for provisions and medicines. Allow that the medicines come to 6*s.* 6*d.* per head (and this is a very full allowance), there remains 2*l.* 10*s.* for provisions; including not only various articles (such as pork), which, to persons in the condition of the Irish, were a needless expense, but some (such as cheese and cocoa) which the settlers absolutely refused to eat.‡ In fact, the cost of the provisions most suited to the habits and tastes of the common Irish emigrant, such as potatoes, oatmeal, oat-bread, bacon, eggs, butter, and molasses (as it is estimated by all persons who have actual knowledge of the best possible standard, the stores which the voluntary emigrants lay in for a voyage to Canada), is no more than 30*s.*, or say, at present prices, 35*s.* or 40*s.*§ Mr. Buchanan, who has been himself engaged in the transport trade from Ireland to America, confirms, in his evidence before the Emigration Committee, the statements made in the letter referred to,|| adding from 5*s.* to 10*s.* to his former estimate for the difference of prices in 1826.¶

The next item of expense which we would reduce seems at present most enormous, and entirely disproportioned to the object and scale of the undertaking: viz. for fitting, surgeon's pay, and other expenses for the expedition of 1823, 2*l.* 4*s.* 11*d.*;

\* *Vide* Mr. Wilmot Horton's evidence.

† *Vide* Estimates in the Appendix to the Emigration Report, p. 294.

‡ *Vide* Evidence of Mr. Peter Robinson, the superintendant of the expedition: Report of the Commons' Committee on Ireland, 1825, p. 21.

§ *Vide* the Letter from Mr. Buchanan of Londonderry to the Chamber of Commerce of Dublin, dated March 1824, given by Mr. Robinson in his Evidence: Report of the Commons' Committee on Ireland, 1825, pp. 27, 28.

|| *Vide* Report, p. 172.

¶ *Vide* also Evidence to the same effect of Mr. Uniacke, his Majesty's Attorney General for the province of Nova Scotia: who also had personally undertaken the conveyance of settlers to the North American colonies.—*Ibid.* pp. 37, 38.

for the expedition of 1825, 2*l.* 3*s.* 6*d.*; say for both, on the average, 2*l.* 4*s.* The Committee is so little explicit in informing us respecting the component parts of this account of expense, that it is not easy to make any comment upon it. We have reasons, however, which will be given presently, for doubting whether, in so short and healthy a passage as that to North America, a surgeon is a necessary part of a ship's complement. And taking the word "fitting" to include bedding and wooden births, we cannot but think, with Mr. Uniacke, that little more accommodation on ship-board is required for the Irish emigrant than his length and breadth on the deck, with a pair of good blankets, and, perhaps, one or two additional comforts for the women and children; no better accommodation, in short, than the private emigrants find sufficient. It is absurd to provide more conveniences on ship-board than they would have found at home. It is worse than absurd: it is a waste of the funds devoted to the purposes of Emigration, and actual injustice towards those who have not had the opportunity of emigrating.

Thus we should reduce the expense of the government emigration, as nearly as possible to what was formerly the expense of private emigration, viz. 4*l.* per head.\*

To any considerable reduction, however, of the items of the expense of transporting the government emigrants to the colonies, and to any prospect of giving effectual encouragement to private emigration, an obstacle is opposed by the officious and stupid regulations of an Act of the 4th Geo. IV, commonly called the Passengers' Act; which, among other useless or mischievous regulations, interfering with the free competition of the ship-owners on the one hand, and the free election of the individual emigrants on the other, requires that every vessel taking out passengers from Ireland to North America shall be provisioned with a certain quantity per head of beef, pork, bread or biscuit, flour, and barley; articles of food which the

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\* *Vide* Evidence of Mr. Astle, Report of Commons' Committee on the State of Ireland, 1825, p. 134—of Mr. Uniacke, Emigration Report, p. 38.

It might even be matter for further consideration, whether it would not be expedient, in the majority of cases, to confine even this outlay of 4*l.* per head to the gratuitous transport of persons who have been reduced to destitution by circumstances of peculiar hardship which it would have been difficult for the parties to have provided against; to make such cases the exceptions; but, as a general rule, to confine the government expenditure simply to aiding private emigration, at the rate of about 2*l.* to 2*l.* 10*s.* per head. But, to determine this question would require a much more elaborate discussion, and a much more minute inquiry into details than our limits would permit us to enter into.

Irish emigrant is totally unaccustomed to consume, and to which he so greatly prefers oatmeal and potatoes, that he often lays in his own provisions, and the useless expense of the other articles is thrown upon the ship-owner. The Act also requires, that every vessel carrying out passengers shall likewise carry a surgeon who has passed the College, thus excluding even army surgeons, and those who have only passed the Medical Board at Dublin: although the passage is not above forty-five days to Quebec, and about thirty-five to forty to St. John's and the United States; a passage, too, during which the passengers, instead of being unusually liable to sickness, almost uniformly improve in health and strength. This latter regulation alone has imposed upon many ships an extra charge of upwards of fifty guineas.\* This blundering Act has led to such consequences as generally occur when the legislature, instead of confining itself to the prevention of fraud or injustice by guaranteeing, sanctioning, and enforcing the performance of contracts between individuals, thinks fit to take upon itself the proper business of individuals, by making their contracts for them. It is alike injurious to both the parties, but most of all to that which it was intended to protect. It has raised the expense of the passage to Canada from about 3*l.* 10*s.* or 4*l.* (including provisions, water, and all other charges) to 9*l.* or 10*l.* per head; and this expense is so great, that "the voluntary emigration is almost put an end to." And "the Act has kept people at home in a state of actual starvation, whose little means, if left to themselves to make use of, would have enabled them to escape from that state. But the expense is now so great, that the voluntary emigration is almost put an end to."†

A pretty specimen of legislation! which, lest the Irish peasant should not find the best lodging, the best feeding, and the best surgical attendance on ship-board, keeps him on land at the imminent risk of getting no lodging, medicine, nor food at all. To escape from the evil of parliamentary benevolence, the Irish peasant, who still wishes to emigrate to Canada, is obliged to go first to Newfoundland, to which passage this precious Act, for some strange reason which we do not profess to comprehend, does not apply; and thence be passed over to Nova Scotia, or, if he can afford it, to Canada, at an expense, which, although much greater than the expense of the direct passage before the passing

\* *Vide* Evidence of Mr. Astle, Report of Commons' Committee on the State of Ireland, 1825, pp. 133, 134, 135—and of Mr. Buchanan, Emigration Report, p. 173.

† *Vide* Evidence of R. J. Uniacke, Esq., Emigration Report, p. 38.



of the Act, is yet much less than the present rate.\* We confess we are somewhat surprised that, notwithstanding the urgent representations on the part of the Irish ship-owners of its vexatious absurdity,† this Act was not repealed in the session of 1825, or, at all events, during last session. But we are willing to hope that the present session may not leave it as another example of the stupidity and blundering which usually characterizes acts of parliament when directed to any matters requiring detailed regulations.

We are ready to admit that great abuses had arisen in the passage trade; that the parties contracting for their passage had suffered severely from the fraudulent cupidity of some of the ship-captains and passage-brokers, and that for this evil the interference of the legislature was required to provide a remedy. For this purpose the following regulations would have been sufficient: 1. That the number of passengers which it might be lawful for any vessel to take out, should not exceed two for every three tons burthen, the crew included. 2. That the master, owner, or consignee of the ship should enter into a bond at the custom-house of the port of embarkation, to the following effect: that each passenger shall be furnished with a certain quantity of provisions, to be put on board by the passenger himself, or by the master or owner, as shall be agreed between them; likewise, that a sufficiently well-stored medicine chest shall be put on board; that the passenger shall be landed at the port at which he contracted to be landed; that no demand not distinctly specified before-hand, shall be made upon the passenger on any pretence whatever; and that he shall suffer no personal inconvenience, beyond what the working of the ship may render unavoidable. 3. Lastly, that a summary mode of procedure be instituted, by which, upon complaint by any passenger of the infraction of these regulations by the master, the complaint being duly heard, and the facts being established, the bond should be forfeited, and the penalty enforced.

Having, then, upon the supposition of the repeal of the present Passengers' Act, reduced the estimate of the mere passage of emigrants to 4*l.*, or, to exclude every objection, 4*l.* 10*s.* per head, we shall now be called upon to do that which some of our readers may, perhaps, think we ought to have done before, viz. to show by what means the emigrants, if set on shore in North America without being located on land, or furnished with

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\* *Vide* Evidence of Mr. Uniacke, Emigration Report, p. 69.

† *Vide* the Memorial presented by the Irish Ship-owners to the Lords of the Treasury.

stock at the public expense, would be enabled to maintain themselves in any better situation than that which they would have left in Ireland.

Now, without entering into any minute and accurate investigation on this head, the stream of the private emigration indicates at once a higher rate of wages, and better opportunities for employing the accumulation of savings, on the other side of the Atlantic than on this: and the direction of that stream may be taken as the best guide to any future government expedition, in selecting the places where there is the most extensive and the most constant demand for labourers. There is no conceivable reason, apart from petty and absurd ideas of national dignity, which could prevent the government, upon the supposition that they merely granted a free passage to the emigrants, from consigning their vessels as well to New York, Boston, or Philadelphia, as to Nova Scotia, New Brunswick, or Quebec, if at the former places there existed a greater demand for labour than at the latter.

From a statement delivered in by Mr. Wilmot Horton to the Commons' Committee on the state of Ireland, in 1825, it appears, that the voluntary emigration to the port of Quebec, which commenced shortly after the peace in 1815, went on with a gradual increase, from 5,000 or 6,000 persons in the course of a summer, to 12,900; and in each of the years 1822 and 1823, there were upon an average 10,300 emigrants. Of these, by far the greatest proportion were casual emigrants, without any capital whatever, who had come over to take their chance of finding employment as labourers. The greater part of these, if they had money to pay for their passage up the river St. Lawrence, or if they could obtain it by a few days labour at Quebec, hastened on to Upper Canada: and of those who did so, about one half went to the United States. Of the whole emigration, the Irish formed three fifths, of whom scarcely one-twentieth part landed with any thing but a scanty provision of clothes and bedding. In the year 1824 (owing, as we have no doubt, to the operation of the Passengers' Act), up to the close of the navigation of the St. Lawrence, no more than 7,500 emigrants had arrived, of whom the greater part were of a higher class of people than those of former years, and better provided with the means of subsistence.\*

This statement agrees with the assertion of Mr. Uniacke, before referred to, and of Mr. Astle,† that the Passengers' Act

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\* *Vide* Report, pp. 11, 12.

† *Vide* Report of Commons' Committee on the State of Ireland, 1825, p. 135.

has put an entire stop to the emigration of the poorer sort of people. Mr. Astle, however, thinks that the number of emigrants from Ireland of all descriptions to all parts of the American coast, is still from 15,000 to 20,000.\* The exact numbers we have not the means of ascertaining. But assuming that the number of voluntary emigrants to all parts of the coast of North America, in the unrestricted state of the passage trade, was annually from 15,000 to 20,000, and that this number found employment as labourers, or the means of settling on land, without any assistance from the government; and looking not only at the rapid extension of cultivation, but at the annually increasing number and magnitude of great undertakings, such as making canals and roads, building towns, and draining tracts of land in the Canadas, and still more in the northern and north-western parts of the United States; we may with safety conclude that the number of emigrants who, with the assistance of the government to the extent we have suggested, might be transported to, and find the means of subsistence in, North America, might be, for some years to come, as many as from 25,000 to 30,000 annually—a number, we incline to think, considerably greater than the government would find it easy, or even possible, to transport annually for any considerable number of years upon the plan of colonization, and at the expense of 20*l.* per head. The difference between 125,000*l.*, the expense of transporting 25,000 persons from Ireland to North America at the rate of 5*l.* per head, and 500,000*l.* the expense of transporting and colonizing the same number at 20*l.* per head, would make no small figure upon the annual estimates of extraordinary expenses. We apprehend that the public, which might perhaps be brought to acquiesce without much discussion or difficulty in the propriety, or at least non-culpability, of laying out 125,000*l.* per annum in getting rid of the most destitute part of the Irish peasantry by a scheme of emigration, would not easily be satisfied respecting the expediency of expending 500,000*l.* per annum, being 375,000*l.* more than necessary, upon an experiment so little hopeful.

But let us enter into a more detailed review of the information which the evidence attached to the Report affords, respecting the demand for labour in the United States and in the British colonies in North America.

Mr. Boulton, solicitor-general for Upper Canada, states [p. 18], that, of the emigrants who have gone out to Canada since the peace, a great number have gone to the United States; for

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\* *Vide* Report of Commons' Committee on the State of Ireland, 1825, p. 135.



this reason, that in the United States they more readily find immediate employment at ready money wages. "The Americans are often looking out for them as they go up the river St. Lawrence." Mr. Uniacke considers that in the provinces of Nova Scotia and New Brunswick alone, looking at the combined advantage of the fisheries and of agriculture, from 15,000 to 20,000 voluntary emigrants scattered around the different harbours and coasts, could be absorbed (we use his own expression) every year for a long series of years, or until the population of those provinces amounted to four or five millions.

To the question,

'How do you think they would be immediately absorbed?'

Mr. Uniacke answers,

'The single men would, of course, hire themselves out to day-labour; they would get immediate employment either in the fishery or in the farms of the country; so that all the single men and the children would be at once provided for. The demand for children there is beyond conception. If the father and mother are unable to provide for them, they can always be provided for there, because every farmer will take a child, or two or three children, from five to six or seven years of age, apprentice, as fast as you can give them to them.'—p. 39.

Mr. Uniacke then details the advantageous stipulations which are made with the farmers in favour of their apprentices, by the authorities who bind them [pp. 39, 40]. Mr. Uniacke gives it as his decided opinion, "that if the population of Ireland were allowed to go to Nova Scotia and New Brunswick upon the same terms as they are now allowed to go to Newfoundland, they would go themselves" [p. 40]: founding his opinion upon the part which he has personally taken in bringing over and settling emigrants from Ireland.

The Rev. Dr. Strahan archdeacon of York, (Upper Canada), states, that "those emigrants who have come from Ireland not under the protection of government have been in the habit of leaving Canada during the summer to work upon the Lake Erie canal." This work is now completed, but "the demand for labour in the United States still exists, though at a greater distance; they are now cutting a canal from Lake Erie to the river Ohio, and those emigrants who come out upon their own means will frequently, to get assisted before they settle upon their lands in Upper Canada, go as far as Ohio, and work upon that canal, and come back with the money" [p. 157, 158]: Mr. Buchanan, a gentleman whose property is in Lower Canada, who has visited Upper Canada and the northern parts of the United States, and who is well acquainted with the

course of the voluntary emigration, states that, although they often arrive in a state of pauperism, "from the very great demand for labour in the United States and in Canada, particularly in New York and Montreal, immediate employ for any number of labourers or mechanics may be had." "In the agricultural districts in Albany there is a great demand for agricultural labour, and in the line of the Erie canal, towards Buffalo, all the way towards the lakes." "Wages in Albany would be, I suppose, eight or ten dollars a month, and the labourers would be fed; the same in Canada, and the same about Montreal. I pay day-labourers half-a-dollar per day throughout the year." "Labourers can lay by at least half of their wages in the United States, and the same in Canada. I have known poor wretches arrive in Quebec that would be hardly hired in Ireland, and they will, in the course of one summer's work, realize fifty or eighty dollars" [p. 169]. "Last year, labourers in Quebec received four or five shillings a day; in fact, labourers were scarcely to be got in Canada last summer, and mechanics of every kind were in great request"—p. 174.

We have not spoken of the probable effects of the opening of the Welland canal, now not far from being completed, and which is to connect Lake Erie and the chain of the Western lakes with the river St. Lawrence. If but one half of the immense commercial advantage be realized, which the Canadian witnesses anticipate as likely to result to Quebec from that canal, the accession of trade on the line of the St. Lawrence alone would almost employ the whole of the number of labourers which we have supposed to be annually conveyed to America.

We anticipate one objection to the view which we have here taken, and to the statements upon which that view is founded respecting the demand for labour existing in the British colonies and the northern states of the Union. This objection is, that, in spite of the demand for labour, and other facilities for settling without assistance in those countries, considerable distress prevails at Quebec and some other of the principal towns of Lower Canada during the winter months, or the period of the least demand for labour, among the voluntary emigrants who have remained there instead of going into the interior, or into the United States.

Doubtless there will be, in any large emigration, a number of persons unable or unwilling to exert themselves sufficiently to provide a subsistence for the period at which there is the least demand for their labour, by laying by a portion of the wages which they earn during the period at which that demand is at

the highest : and there will even be persons unable to procure subsistence by their labour at the most favourable season. On any plan of emigration, there will always be "widows with young children, and sickly persons, perhaps with whole families attached to them, either wholly destitute or insufficiently provided with means to procure food, clothing, lodging, &c." as described in the memorial presented to the earl of Dalhousie, commander of the forces in Canada, by the Quebec Emigrant Society, an association instituted for the purpose of relieving emigrants in distress.\*

But the only question here is, what proportion has this description of persons borne to the whole of the voluntary emigrants ? Certainly, not such a proportion as would induce us to abandon the other advantages of an emigration of labourers, compared with an emigration of colonists. This may be inferred from the amount of the disbursements of this Society in the year 1823, which were,

To disbursements in the relief of helpless indigent emigrants .....	£.	s.	d.
	200	0	0
To disbursements of the Committee for providing work for those who pleaded inability to procure other employment .....	300	0	0
Expenses in locating 19 families on lands ..	145	0	0
Paid for passages of emigrants forwarded to their friends in the interior of the country, and of widows and families who have returned to Ireland .....	68	0	0
	713	0	0
Deducting value of work done by the emigrants .....	162	3	5
	£ 550	16	7

This then was the whole sum expended in relief of the destitute and improvident among 10,258 emigrants, in the year 1823. But we may deduct at least 100% from the third item of expense, as incurred in forwarding an object not strictly within the province of the Society ; leaving 450% as the whole expense *necessarily* incurred for relieving the destitute few out of an emigration of upwards of 10,000 persons, and not only relieving for a time, but sending emigrants to their friends in the interior, and supporting others until the arrival of summer, when, being better acquainted with the country, and the employment which it affords, they were enabled to shift for themselves. And this for a sum not exceeding a quarter of what is

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\* *Vide* the Memorial, as delivered in to the Committee of the House of Commons on the State of Ireland, 1825, by Mr. Wilmot Horton, pp. 13, 14.



commonly expended by a parish in England, containing the same number of persons, in relieving the poor during one year only ; a sum not exceeding the 400th part of the sum which would have been necessary to colonize the same number. As the expense, however, light as it is, of relieving the destitute emigrants, falls upon those upon whom there is no reason that it should fall, upon the inhabitants of the principal towns of Canada, a provision ought unquestionably to be made for it in the scheme of Emigration.

We should anticipate many advantages in point of cheapness and simplicity of management, and no objection in point of efficiency, from investing the authorities at the ports of debarkation in Canada and Nova Scotia with certain limited powers for superintending and regulating the course which the emigrants ought to adopt upon landing ; for relieving and providing for the widows, orphan children, and sickly persons ; for taking precautions that as long as there is any unsupplied demand for labour in the interim, no numbers likely to become superfluous in the winter shall remain in and near the towns ; for employing on public works those (if by chance there be any) who, after these precautions, are still too numerous beyond the immediate demand for hands. For these purposes, including the expenses of management, we should propose to place in their hands funds to the amount of 2/. per head on the whole emigration, thus bringing the expense, including the 4/. 10s. per head for transport, to 6/. 10s. per head\*—a total expense, still not one third of that which the scheme of colonization would require.

These are the calculations upon which we rest the view which we have taken of the expediency of affording a free passage to Canada for the destitute portion of the population of Ireland, in preference to the more expensive and not more efficient measure of colonization ; calculations which we fear have been more than ordinarily tedious, but which are essential to the discussion of a question of which the determination must entirely depend upon an accurate estimate of numerous small

\* Or it might be a still better plan to place these powers of police regulation, administration, and superintendence, in the hands of persons specially appointed as superintendants of the emigrants. The royal commissioners at the Cape, Messrs. Bigge and Colebrooke, in their Report, referred to in a subsequent page, estimate the expense of superintendants for the emigrants to that colony at not more than 1/. per head.

As superintendants, however, of an emigration to Canada in the proposed form, would have to provide for cases of sickness and casual destitution, and occasionally for conveyance of labourers to the interior, we take the expense at a higher rate. Still, however, the allowance which we have made is very large.

items of expenditure ; or, to use a more familiar illustration, upon the comparison of two sums of simple addition, of which each term is the result of several smaller sums, and requires a detailed examination. In such a case as this, to have attempted to be brief, would have been, to sacrifice all chance of being understood ; to have attempted to be amusing, would have been more than ridiculous.

After the direction which we have in the preceding pages given, to the discussion respecting Emigration, it may seem incumbent upon us to notice the emigration of *labourers* to the Cape, alluded to by the Report, in p. 6. To do this as fully as is necessary for the only end which we at present have in view will not require a very large space.

Wages at the Cape, according to the evidence of Mr. Carlisle,\* who has resided at that settlement near Graham's Town in the district of Albany, for six years, are, for artizans 10s. to 12s. a day, and for labourers, 4s. to 5s. a day, out of which this witness considers that 3s. a day would be quite sufficient to furnish the labourer with food, clothing, &c., and that he may therefore, out of the lowest specified rate, save 1s. per day. According to the Commissioners, Messrs. Bigge and Colebrooke,†

‘Mechanics are able to gain from three to four rix dollars per day, together with subsistence and lodging ; and common labourers demand a rix dollar and a quarter, or two rix dollars, besides subsistence, which may be estimated at half a rix dollar ; but they are not able to procure regular employment at this rate. Children, apprentices, from twelve to fourteen years of age, are much sought after. Children of eight years old have been able to earn their subsistence and clothing, and those of ten years have obtained four or five rix dollars a month wages, and more as they grow older.

‘Notwithstanding the importation of so many European labourers into the colony from time to time, the high price of labour has not hitherto been perceptibly affected.

‘Mechanics, and tradesmen of all classes, especially tailors, shoemakers, saddlers, bricklayers, upholsterers, coopers, sawyers, carpenters, and blacksmiths, meet with ready employment in Cape Town, and are in as great demand in the country districts, where common labourers in husbandry continue also to receive high wages.‡ The Commissioners also

\* *Vide* Emigration Report, p. 67

† *Vide* Extract of a Report from his Majesty's Commissioners of Inquiry, to R. J. Wilmot Horton, Esq., dated Cape of Good Hope, 1st June, 1825, upon the subject of the Emigration to the Cape from Ireland of 400 individuals at the public expense. Appendix to the Emigration Report, No. 3.

‡ Surely these statements are somewhat inconsistent with the remark of the Commissioners which accompanies them, viz., that “ the wages of

represent that "the English settlers in the district of Albany are most anxious for the arrival of parties of agricultural labourers to relieve the great want that is now experienced there, and to reduce the high rate of wages they are compelled to pay for servants of every description."

This Report pretty well accords with the evidence of Mr. Carlisle, in proving that the wages of labourers at the Cape are very high, so high that the colonists cannot afford to employ them regularly throughout the week or month; that therefore, by an importation of fresh labourers, within certain limits as to number, the colonists will be benefitted, and the labourers not reduced to much lower wages, but only obliged to work a little more for the same. The question then occurs, what are these limits?

Mr. Carlisle, the only witness from the Cape, is of opinion, that an importation of labourers in each year, exceeding 500, would have the effect of lowering wages very considerably. This opinion is not, indeed, given directly or decisively, but it may be collected from pages 88 and 89 of the Report; indeed, from his evidence, it seems that an importation of more than that number, introduced during one year only, would depress wages in a sensible degree. Messrs. Bigge and Colebrooke go no further than to recommend an importation of labourers on a more limited scale as to numbers than the expedition under Mr. Ingram, which was composed of not more than 350 actually embarked. [*Vide* same reference]. Thus, it appears, that an emigrant expedition to the Cape may be

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common labourers, who receive a rix dollar and a half per day, and subsistence for themselves, are at nearly as low a rate as, in the present circumstances of the colony, comports with the maintenance of a large family, if the children should not be old enough to enter into service." The low price of provisions, add the Commissioners, has been favourable to their support, but lodgings in Cape Town are still dear, as well as articles of European clothing. This remark is almost too vague to admit of being examined very accurately; but do the Commissioners mean, that when the subsistence of the labourer himself is already furnished to him, and provisions for his family being, by their own account, very cheap, say three fourths of a rix dollar, per day (the Commissioners have, already, given the estimate of the subsistence of the labourer alone, as not more than half a rix dollar per day), clothing and lodging require an expenditure also of three fourths of a rix dollar per day?

But the Commissioners speak upon the supposition of a large family, of which the children are not old enough to enter into service; an unlikely supposition, considering what the Commissioners have stated respecting the demand for young children's labour. We are inclined to believe, therefore, that Mr. Carlisle's computation, that a common labourer at the Cape will be able to save one shilling per day out of his wages, is correct, even as applying to labourers who have families.



expedient upon the ground of colonial policy, or to answer some special and confined object, but that it is altogether beyond the pale of any question relating to the means of temporarily disburthening Ireland of her excess of population.

There is, however, one measure connected with emigration to the Cape, which is suggested by the Committee's Report, and which merits consideration, because, if it be possible at all, it might become one of more extensive application. In order to re-imburse the state for the expense of carrying out emigrant labourers, it is proposed "to legalize apprenticeships, in no case to exceed seven years, during which one fourth of the wages received by the apprentice should be set apart by the master, in liquidation of the expense incurred in the transport of the emigrant; such apprenticeships only to continue until that expense shall have been liquidated, and after that period the apprentice to be entirely free."—p. 11.

Commissioners Bigge and Colebrooke consider that this measure would be attended with neither inconvenience nor difficulty to the government, nor with any hardship or permanent privation to the emigrant labourers.

Assuming that 15*l.* would defray the expenses of the transport of a labourer to the Cape, which is exactly the same as Mr. Carlisle's estimate, their opinion is, that by a deduction of from 15*s.* to 25*s.* per month from his wages, he would acquire the free disposal of his labour in from twelve to twenty months. They propose that the masters should become responsible to the local authorities of the district for these payments; and the colonial law, according to their statement, will be quite sufficient to afford effectual means of compelling servants to perform their engagements towards their masters. But, as we have once already observed, neither the extent nor the wealth of the settlement at the Cape at the present moment offer any demand for human labour sufficient to make an emigration to that quarter, upon whatever plan conducted, an object of any national interest: nor, if the causes, physical as well as moral, which have hitherto so powerfully retarded the progress of that settlement, continue to operate, is it likely to become so within any short period of years.

But the principle, that every labourer who has, from a state of destitution in the mother country, been transported by this government to a country where he is enabled to obtain wages more than sufficient to support him in a state of health and vigour, ought to be compelled to replace, with the surplus portion of his wages, the national capital which has been expended in transporting him, is so strongly

recommended, not only on the ground of general national expediency, but especially on the ground of strict justice towards the people who have not emigrated, that it well deserves to be considered apart from any particular scheme of emigration to a particular colony, and to be kept in view as the general test of the expediency of any emigration whatsoever at the public expense.

As the Committee, in the passages which we have quoted from their Report in the earlier part of this article, do not seem to contemplate an expedition of any sort, either of colonists or of labourers, to New South Wales, it is hardly necessary that we should make any remark upon the expediency of emigration to that quarter. It will be sufficient to observe, that the expense of transport to New South Wales is 86*l.* 10*s.* for a family consisting of a man, his wife, and three children, according to the estimate of Mr. Eager,\* say 30*l.* to 35*l.* for a single man; that the demand for labour, even at present, is hardly equal to the supply; that the rate of wages being not more than from 2*s.* to 3*s.* a day, according to circumstances of time, place, and skill, it therefore would be extremely difficult, and, under present circumstances, almost impossible, that an emigrant labourer, who should be carried out and placed there, should be able to repay the expense of his passage, without submitting to a period of servitude much longer than that proposed as the longest term of such servitude by the Committee, and after which he might still find himself, at an advanced time of life, nearly as destitute as at the moment when he left the mother country. These objections offer themselves at present. In the rapid progress of that flourishing colony, it is not impossible that the force of them may be very much diminished, but not, we apprehend, in such a degree, that emigration to New South Wales, on a large scale, can ever become expedient, or even practicable. Whether it will be possible to obtain from labourers transported to the North American colonies any portion of the expense incurred in their transport by means of legalized apprenticeships or servitude, it is not within our competence to decide. We confess that we see several obstacles in detail to the attainment of this object; but when the principle of a measure is unquestionably sound, we are very little inclined to be discouraged by obstacles in detail. It is the duty of the colonial department to procure from the North American, as well as from the other colonies, that further information with respect to this point which the

suggestion of the Committee requires, before it can be brought in a definitive form before the legislature.

In conclusion :—In all that we have said with respect to the expediency of an emigration of labourers, it will be borne in mind by the reader, that we have advocated that measure, not as being absolutely and in itself expedient, but only as being less inexpedient than the proposed emigration of colonists. Without believing that the emigration of so small a number as on any plan whatever can be annually removed is calculated to produce any perceptibly beneficial effect upon the condition of the peasantry in Ireland, our object has been, to show that to transport the emigrants, not as *colonists*, but as *labourers*, is the mode of emigration calculated to produce, at the smallest expense, whatever good effects emigration is capable of producing at all.

On the general question, we adhere to the opinion with which we set out, viz. that emigration to any extent, although it may palliate for a short time the evil of a redundant population, reaches not the causes of that evil, causes which, unless removed, will renew it and perpetuate it ; and that emigration on such a scale as would be effectual in producing even a temporary improvement in the condition of the population of Ireland would require such an enormous outlay of national capital, as would materially affect the sources of re-production, and thence diminish the means of employing the labouring population of the empire at large.

At the same time, differing as we do from the Emigration Committee, both as to the utility and the feasibility of the measures to which they attach the seal of their approbation, we are not only ready, but anxious to testify our high estimation of the zeal, activity, and industry, with which they have pursued their inquiries, and of the spirit of candour and of adherence to general principles which marks the result at which they have arrived in their Report. Whatever judgment the public may pass upon the practical conclusions which they have laid before the legislature, it can hardly fail to acknowledge, that the course of investigation which they have adopted has been the means of collecting a most valuable mass of evidence upon many subjects connected with the colonies, concerning which it was extremely desirable to have, and extremely difficult to obtain, accurate and detailed information ; not only for the guidance of private emigrants, but to enable the government and the public to form a more accurate conception of the actual state and future prospects of our colonial possessions. Above all, we are anxious to render the credit due



to the gentleman who was the original mover of the Committee, who undertook the principal charge of collecting the witnesses to be examined, and who is understood to have taken the greatest part in the drawing up of the Report. There is good reason to believe that we are indebted to Mr. Wilmot Horton for the most remarkable feature in that document, the distinct statement, that an excess of numbers is the cause of the present distressed state of the working classes; a statement, of which the bold and uncompromising spirit exhibits a strong contrast with the timid and indecisive style of most official reports, and which forms a decided era in the progress of the present ministry in the career of true political wisdom and political courage.

ART. VI.—1. *Mr. Jacob's Report on the Trade in Corn: Ordered by the House of Commons to be printed, 14th March, 1826.*

2. *A Letter to the Electors of Bridgenorth upon the Corn Laws. By W. W. Whitmore, Esq. M. P. 8vo.*

THAT some alteration will be made in the Corn Laws during the present session of parliament, is, we believe, certain, but we doubt much whether the alteration will be such as materially to benefit the consumer.

We give credit to the liberal part of the ministry for a sincere desire to place the corn trade on the best possible footing; but, unless vigorously supported by the people, they are perfectly impotent when opposed to the landlords—their masters, and those of the nation. On the present question the ministers, we fear, are not vigorously supported by the people. Though the stock of grain on hand is insufficient for the year's consumption, though high prices and distress are inevitable, and a famine in the next or succeeding year is far from improbable, scarcely a petition of importance finds its way to parliament from the opponents of the Corn Laws; whilst the landlords are collecting all their strength to impose a duty on importation, of an amount equivalent to total exclusion except in years of scarcity. Nothing less than the most strenuous exertions on the part of all the other classes of the community affords any chance of obtaining a moderately low duty; and there appears at present but little hope of such exertions being made, unless the great rise in the price of corn, which must take place in the spring, shall occur before the new Corn-bill is passed, and rouse the people from their apathy, by the pains of starvation.

We propose first to examine the most material arguments in

favour of restrictions on the corn trade, and to shew that the only permanent system which the public interest justifies the legislature in adopting, is a perfectly free trade, unshackled by any duty whatsoever. We shall then proceed, as there is no hope of obtaining a free trade at present, to compare the various systems of partial restriction which have hitherto been proposed.

Of the positive arguments against restriction on the trade in corn, it is unnecessary, in the present stage of the discussion, to give any thing more than a summary. They are,

1st, That restriction causes a waste of labour in cultivating barren soils, to produce corn which might be bought with the produce of less labour, by being purchased with manufactures.\*

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\* The Edinburgh Review has, in several recent articles, under-estimated very considerably the gain which the landlords derive from the continuance of the Corn Laws. And we ourselves (in our sixth No., p. 392) incautiously adopted its arguments.

The Reviewer argues [No. 68, pp. 341 and 344], that as rent in England forms but a fifth, or a fourth part at most, 'of the whole produce of the soil, and as "the monopoly system which gives a greater value to the one fourth part of the produce of the country, that goes to the landlord as rent, equally raises the value of the other three fourths which are partly cast into the soil as seed, and partly consumed by the men, horses, and oxen, employed by the farmer - - - to whatever extent the Corn Laws raise the price of corn above what it would be were these laws repealed, not more than *one fourth* part of that sum finds its way into the pockets of the landlords, and the remaining *three fourths* are absolutely and entirely lost or destroyed."

This estimate of the proportion between the gain to the landlords and the loss to the consumer is obviously framed on a wrong principle. The loss to the consumer is, it is true, measured by the amount of the rise of price upon the whole of the corn consumed by the nation. The annual consumption of wheat in this country is estimated at fourteen or fifteen millions of quarters. The rise occasioned by our Corn Laws in the average price is shown, by incontestable evidence, to be about 10s. per quarter, viz. from 50s. to 60s. The Corn Laws are, therefore, equivalent to a tax of seven millions, or seven millions and a half, upon the consumer. But it may be easily shown, that of this tax a much larger portion goes into the pockets of the landlords, than the Edinburgh Reviewer supposes.

The Reviewer argues as if the landlord received the same *corn* rent under a free and a restricted trade, and received benefit from the Corn Laws only in the ratio of the increased value of that corn-rent. But this is a mistake. Under a restricted trade, not only does the same corn-rent bear a higher value, but the landlord receives a greater corn-rent than when the trade is free.

The reason of this is manifest, and it will be assented to, we feel assured, by the distinguished writer of the articles in question, as soon as it is suggested to him. The Corn Laws force the cultivation of inferior soils; of soils which yield less corn, to the same labour, than any soil which would otherwise be in cultivation. But, as soon as the price of corn is such as to induce farmers to cultivate for the sake of a diminished quantity of corn, competition will oblige the farmers on the superior soils to content themselves also with a diminished quantity, giving to their landlords a part of that corn which they had previously kept to themselves.

2ndly, That it lessens the *power* of accumulation, by diminishing the productiveness of capital, and the *motives* to accumulation, by lowering profits.

And, 3rdly, That unless counteracted by a system of bounties on exportation, it increases the frequency and extent of fluctuations in price.

There are many other arguments urged against the existing law, but as scarcely any person worthy of notice now advocates the continuance of that law, we think it unnecessary to restate them.

Thus, then, stands the case in favour of free trade. The advocates of restriction, on the other hand, contend, that free trade would be a great national calamity, pregnant with all the evils compatible and incompatible with each other, which their various degrees of prudence, imagination, and eloquence induce them to predict.

Some defend restriction, because, whatever may be the case in theory, in practice it keeps the price of corn *low*, and prevents fluctuations; others vary the argument, and defend it with equal strenuousness because it *raises* the price of corn, contending, with Mr. Robertson, that "there cannot be a greater grievance inflicted on a country than cheap bread;"

Having thus shown that a greater proportion of the bread-tax goes into the pockets of the landowners than was supposed, we shall suggest another and a more correct test for determining what that proportion is.

Suppose that a corn law was now for the first time to be enacted, and that we had hitherto consumed fifteen millions of quarters, whereof we had produced fourteen millions, and imported one. A corn law being enacted, we are obliged to grow the whole fifteen millions at home, in consequence of which the price rises 10*s.* a quarter. The community, landlords and consumers together, would lose nothing upon the first fourteen millions, because it would not require more labour to produce them, than were required before. The cost of the seed, horse food, &c. consumed in their production would, indeed, be raised, but allowing 2*s.* 6*d.* per quarter for the additional cost of cultivation thus occasioned, which is an ample allowance, the farmers, that is to say, their landlords, would gain 8*s.* a quarter on the whole of this large quantity of corn, and the consumer would be taxed 5,000,000*l.* for their benefit. The remaining million of quarters, which were previously imported, would now be grown at home at an increase of cost proportioned to the increase of price, and the landlord, therefore, would gain nothing by them. In addition, therefore, to the tax of five millions sterling, levied on the consumer for the benefit of the landlord, there would be levied on him another half million for the benefit of nobody.

The average importation which would take place if the trade were perfectly free is seldom estimated at so much as a million of quarters. Unless, therefore, the common computations are much below the mark, the landlords, instead of gaining no more than a fourth of the tax, gain nearly ten elevenths of it.



dear corn bringing "prosperity to all classes," while cheap corn causes nothing but universal "distress."

Mr. Curwen fears, that opening the corn markets of the world to us would cause a *famine*, but whether extending to England only, or universal, he did not state: others, that paying less for our bread would leave us less to pay taxes with: Mr. Gooch dreads the frequent embarrassments of the currency which a *constant* trade would occasion, and which never can occur where importation is merely *occasional*: Sir J. Wyldbore Smith asserts, that if foreign corn be admitted at all, even on payment of a duty, "every acre of land in tillage will be thrown out of cultivation," and remain as perfectly unheeded, we presume, as it was before corn laws were established.

The consequences of this fatal event are fully shown by others. The manufacturers would lose their "best customers," the agriculturists; and, for "one weaver now starving, we should then have ten." The manufacturers may, perhaps, imagine that the foreigners would become purchasers of our manufactures to the same extent to which we purchase their corn; but nothing can be further from the truth. The expectation is founded in theory; it is altogether visionary and delusive. The foreigner caring nothing for our interests, would not, as sir Thomas Lethbridge himself can prove, condescend to take any thing but money for his corn, while we should have money to give; and when that was gone, would behave still worse, and take nothing at all. He would require that we should become his customers for enormous quantities of corn, and would refuse to take a single yard of cloth from us in return: in short, he would give us the corn for nothing. Our landlords do not treat us with so much cruelty; they have more consideration for the interests of Englishmen; "the reciprocity is not all on one side," when they supply the corn; provided the manufacturer consent to buy *their* corn, they are willing to take off his hands all the manufactures he can produce in exchange: and it may be asserted, without fear of refutation, that even supposing the foreigner might be induced to deal with us to some extent, he would not require so large an amount of manufactures, by 20 per cent, in exchange for the same quantity of corn, as the landlords at present take. This may be considered as conclusive evidence that the landlords are, at all events, the *best* customers of the manufacturer.

To crown all, the lord chancellor has already expressed his alarm for the safety of the constitution, if the vital principle that the people are to be taxed for the landlords' benefit be interfered with; and when all his doubts are cleared up, will

probably decide, that a free trade in corn would also be subversive of all sound morality, and strike a death-blow at religion.\*

Such arguments as most of these deserve no further notice: they can mislead no one who has, at the same time, sufficient intellect to comprehend a refutation, and patience enough to read one.

The arguments worthy of attention in favour of the restrictive system are of two kinds. It is either denied that restrictions on importation raise the average price of corn, and cause fluctuations; or it is allowed that restriction has these effects; but a duty is claimed, either to *protect* the English agriculturist, or to *counterbalance* the *extra* taxation which, it is supposed, falls upon agriculture.

We are not aware that it has ever been denied till lately, that restrictions on importation keep up the price of corn. This was the ground on which their necessity was wont to be maintained. But lord Lauderdale was destined to afford, on this occasion, a somewhat ludicrous example of the blunders of those who draw their conclusions from historical facts, without examining either into the truth or relevancy of those facts. His lordship actually attempted, in the last session of parliament, to prove, from the history of the corn trade since 1670, that to permit corn to be bought in the cheapest market is an infallible mode of rendering it dear.

He is reported to have said,† “ It would be found in the history of this country, that by an efficacious law passed in 1670, in the reign of Charles 2nd, before foreign corn could be admitted, the price in the market must have risen to 50s., which, with a duty of 11s., brought the importing prices to 3*l.* 1s. . . . During the first thirty years after the passing of that act, they had wheat at 1*l.* 19s. per quarter. That system was continued down to 1765, and during the last thirty years of that period, wheat was at 1*l.* 14s.; shewing that during the whole of that period, a low, and indeed a declining price, under those restrictive regulations, was constantly maintained. It was also a curious circumstance that, during the whole of the period he had mentioned, the highest price was never more than two thirds of that to which it rose when the system was changed to that of a free trade: not such a system of free trade as that which was so much boasted of at present; which was too

\* See the debates on the corn laws during the session of 1826, for the more complete development of the arguments of Mr. Robertson, Mr. Curwen, Mr. Gooch, Sir T. Lethbridge, the Lord Chancellor, the Earl of Malmesbury, and others.

† Parliamentary History and Review, p. 383.

ridiculous to be talked off, and of which the silk manufacture afforded a good specimen—a free trade with a protecting duty at 30 per cent *ad valorem*. At the period he had mentioned (1765) a really free trade was allowed, and at the end of eight years the average price of grain was found to have been 2*l.* 10*s.* 10*d.* a quarter, being 15*s.* 11*d.* higher than it had been for the long period under the formidable protection that had been granted in the time of Charles 2nd.”

Our readers will be considerably surprised, when they learn, 1st, That the law of 1670, imposing the duty, actually continued unrepealed during the eight years spoken of by the noble earl as such a perfect trial of free trade, and was merely suspended by *annual* statutes, on account of the extreme *badness of the seasons*.\*

2nd, that so far from its being true “that, during the whole of the period (ninety-five years) which he had mentioned, the *highest* price was only *two thirds* of that to which it rose when the system was changed to that of a free trade;” the highest price to which corn rose during the eight years of free trade was 57*s.* 4*d.* only, which is the average of only *one* year (1767): while for *five* of the years included in the period of ninety-five, the average price of wheat was above 60*s.*, and for two of them (1709, 1710) the averages were 69*s.* 7*d.* and 69*s.* 4*d.*

3rdly, That, instead of corn having constantly *maintained* a *low* or *declining* price, during the ninety-five years in question,

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\* The Summer of 1765 was excessively hot and dry [see Tooke on High and Low Prices, part 3, p. 31], and, in consequence of an expected failure in the crops, parliament, before it adjourned, suspended the bounties on exportation of wheat (by stat. 5 Geo. 3. c. 31), and empowered the king (by stat. 5 Geo. 3. c. 32) to prohibit its exportation during the recess. That the law of 1670 was merely suspended on account of bad seasons will be seen by reference to the statutes passed in each of the eight years succeeding 1765, to admit the *free* importation, and prohibit exportation of corn (viz. 6 Geo. 3. c. 3, 4, 5; 7 Geo. 3. c. 3, 4, 5, 8, 11, 30; 8 Geo. 3. c. 1, 2, 3; 9 Geo. 3. c. 1; 10 Geo. 3. c. 1; 11 Geo. 3. c. 1; 12 Geo. 3. c. 1; 13 Geo. 3. c. 1, 2, 3), and particularly by reference to the preamble of the stat. 13 Geo. 3. c. 43 (1774), by which the statute of 1670 was repealed. This preamble states, that “Whereas several acts heretofore made concerning the duties and bounties on the importation and exportation of corn have greatly tended to the advancement of tillage and navigation, yet nevertheless it having been of *late years found necessary*, on account of the small quantity of corn in hand, and of the *shortness of the crops*, to *suspend* the operation of those laws by *temporary* statutes, it is desirable that a permanent law should pass, to render such *temporary* expedients unnecessary.” See, for further evidence, Smith’s *Wealth of Nations*, vol. 1, p. 310, 3rd edition, and Tooke, on High and Low Prices, part 3, p. 39. Adam Smith wrote his account of these seasons from personal observation.



the only years (till within the last thirty) in which the annual average price of corn *ever* reached 60s. are to be found among those ninety-five: as is also the greatest fluctuation\* which England has ever experienced (at least since 1670, the earliest year for which we have the averages before us at present).

4thly, That the price is made to appear declining during the ninety-five years, only by selecting two portions of that period, the first of which is celebrated for the great number of bad harvests it includes, and the second for the almost total absence of them.† And 5thly, That restriction did not prevent fluctuation in price, for the annual averages varied very considerably during the period.‡ Yet all these propositions are strictly true. We think it unnecessary to say any thing more on the subject of lord Lauderdale or his arguments.

There are persons with minds of a similar stamp to that of his lordship, who support the same paradox by a reference to the prices during the last few years. Even if it were true, that the price of home-grown corn had for five or six years been lower than that at which foreign corn could have been imported, and had been remarkably free from fluctuation; the inference that the exclusion of foreign corn was the cause would imply a theory too contemptible to be advanced by any but a "practical man." As justly might it be inferred that the reign of George the fourth, also a coexistent fact, produced those effects.

But neither of the assumed facts is true. It is notorious that corn could, and but for the law would, have been imported at a lower rate than that at which it has been selling in the English markets: and it is not less true that the actual lowness

\* It appears from the accounts kept at Eton College that, at Lady-day, 1708, wheat was at 3s. 10d. the bushel of nine gallons; at Michaelmas of the *same* year, wheat had risen to 6s. 6d. per bushel, or nearly cent per cent; and at Michaelmas, 1709, it had attained 11s. 6d. per bushel, being a rise of *two hundred per cent*, in less than two years.

† The first period of thirty years is just sufficiently long to include the eight years from 1692 to 1699, "traditionally called *the barren years*," [See Farmer's Mag. Jan. 1800, vol. I. p. 103, and Tooke on High and Low Prices, part 3, page 9], for which years alone the average was 2l. 14s.: while the thirty years chosen from the end of the ninety-five, form part of, perhaps, the most remarkable series of good harvests to be met with in our history. Mr. Tooke says [part 3, p. 9] of the period from 1730 to 1765, "In that interval of thirty-six years, there were in this country only *two* seasons, as far as I have been able to trace, of great and general scarcity."

‡ The average of the six years from 1686 to 1691 was but 28s. 8½d., but that for the eight succeeding years was 54s. The prices for the six years ending with 1714 averaged 53s., and those for the six years from 1742 to 1747, only 27s.

of the price during the last three or four years has been owing, not to the existence of the law, but in a great measure to its infraction, and to the expectation that it would shortly be repealed. This expectation, combined with other causes, has occasioned 3 or 4,000,000 quarters of corn to be thrown into the market during the period in question, which would otherwise have remained in the hands of the dealers as stock; and in each of the last two years about 400,000 quarters of Canadian and bonded wheat have been admitted in infraction of the law. These circumstances, in addition to a series of tolerably early and moderately abundant harvests, are sufficient to account for the comparatively low price of corn during 1823, 1824, and 1825, without having recourse to the paradox, that a prohibition of importation is necessary to prevent us from buying corn of foreigners at a rate dearer than that at which we can grow it at home.

These are the only arguments employed by the landlords to show that restriction on importation does not raise the price of corn. All their other arguments assume that it does, and they maintain, on this ground, the necessity of *protecting* or *countervailing* duties.

It is essential to keep steadily in view the distinction between a *protecting* and a *countervailing* duty. The word "*protection*" implies that the agriculturist is to be benefitted by the exclusion of foreign corn. The object of a *countervailing* duty is, not to benefit the agriculturists, which its advocates allow no such duty can do, but to prevent the alleged unequal taxation of agriculture from giving a forced direction to capital, and thus occasioning a loss to the country. Now, no principle of trade can be more certain than that the exclusion of foreign commodities cannot possibly be at all advantageous to the native capitalists, though the removal of restriction may *temporarily* injure those whose capital is fixed in a particular business, and cannot easily be removed to another. The competition among themselves will always be sufficient to prevent the particular class of producers intended to be favoured, from obtaining, for any considerable length of time, more than the ordinary rate of profit. And so far from raising the ordinary rate of profit, restriction, where it raises the value of articles consumed by the labourers, always eventually lowers it.

The effect of restrictions on the trade in corn, in depressing profits, is peculiarly great, because the largest proportion of the consumption of the labourer consists of corn. Restrictions on the importation of corn force poor soils into cultivation, and cause corn to be produced at a greater expense of labour. Corn, therefore, rises in comparison with other com-

modities, and the manufacturing labourer must either have less food than before, or a larger proportion of the products of his labour must be given him to purchase it, and a smaller proportion left to the capitalist as profit. In fact, the rise in the price of food always checks the increase of population among the labourers, till wages are raised and the effects of restriction shifted almost wholly on the capitalist. The farmer and the manufacturer are alike injured, the rise of wages and fall of profits being common to them both.

The labourers, too, although their corn-wages should eventually rise to their former level, are always considerable sufferers from laws restricting the importation of corn. Without taking into account the temporary fall in corn-wages, which the institution of such laws occasions, we may remark, that the rate of corn-wages being given, the comfort of a population depends much on the rapidity with which capital is accumulated. If capital increase rapidly, the labourer may marry early, and employment will grow up with his children. If accumulation be slow, he must marry late, or reduce himself and his children to misery. Corn laws, by lowering profits, diminish the inducements as well as the means for accumulation, and create a motive for removing capital from the country.

The interest, therefore, of the farmers and labourers, the only real agriculturists, requires that the price of corn should be as low as possible. Duties on the importation of foreign corn, instead of *protecting* their interest, are, and must be in all cases, decidedly opposed to them; and this, we rejoice to see, the more intelligent of them are at length beginning to perceive. The landlord and tithe-eater, on the contrary, whose title to be termed "agriculturist," is no better than that of the crow, who also feeds on the land which *others* have cultured, have an interest in perpetuating a high price of corn, and are the only classes that are not grievously injured by it.

The grounds urged by the advocates of *countervailing* duties remain to be considered. Most of those whose opinions on such subjects are deserving of the greatest consideration have held, that if agriculture be more heavily taxed than the other branches of production, the interest, not of the landlords and tithe-eaters only, but of the whole community, requires that a countervailing duty equal to the *extra* burthens upon agriculture should be imposed upon the importation of foreign corn. The reason given is, that otherwise the inequality of taxation will give a factitious direction to the capital of the country, and therefore cause it to be less productively employed.

The sufficiency of this reason we will shortly examine. The



landlords, however, in agriculturists' clothing, go much further. Some of them argue that, for *every* tax imposed on the home producer, a tax equal in amount should, in justice to him, be placed on his foreign rival: and complain that, if they are taxed and the foreigner is not, the latter must drive them out of the market. Others claim an import duty on foreign corn, because similar duties are imposed on some kinds of foreign manufactures. The duty claimed in both these cases is usually called by its advocates a *protecting* duty. We have, however, seen that the *protection* of agriculture can in no possible case form a ground for an import duty on corn, since import duties are always injurious to agriculturists, and beneficial only to landlords. And we consider it equally clear, that neither taxation, unless unequal, nor import duties on manufactures, afford any ground for a *countervailing* duty on foreign corn.

The object of a countervailing duty is not to protect the landlords, that is, to put money into their pockets; it is, to protect the community against that loss of wealth which it would sustain by the diversion of its labour and capital from a channel in which they yield a greater, to one in which they would yield a smaller, return. Suppose that corn could be raised in this country at a cost which enabled the producer to make the ordinary rate of profit by selling it at 50s. Suppose now, that a tax of 5 per cent be laid upon corn without a countervailing duty, while cloth is not taxed at all; it is obviously the interest of our capitalists to produce cloth at an expense, say of 54s., wherewith to buy foreign corn, rather than grow it at 50s., paying a duty of 5s. to government. The value of 4s. on every quarter of corn imported is therefore lost to the consumer without being gained by any body, in consequence of the forced direction to capital. If a countervailing duty of 5s. were imposed on *imported* corn also, this new distribution of capital, and consequent loss to the community, would be prevented.

But if the cloth, as well as the corn, had been taxed 5s. there would have been no motive to change the direction of capital; we should still have grown our corn at home, instead of importing it; there would have been no loss to the community, and consequently no use for a countervailing duty to prevent it. If such a duty were imposed, it would produce, instead of preventing, a forced distribution of capital; it would not indemnify the farmer for the tax, since the whole benefit would be for the landlord, and even to the landlord it would not give all that it took from the consumer.

A countervailing duty, were taxation equal, would act as a

bounty on the cultivation of corn which could be obtained cheaper through the medium of manufactures, and would thus produce the very evil it is the object of a *countervailing* duty to prevent—an unproductive distribution of capital.

The landlords are the only persons who would be benefitted by such a measure, and their claim on the legislator for an import duty equal to the whole taxation on agriculture amounts to this: “Whenever you impose a tax on agriculture for the purposes of revenue, impose another equal in amount for us. So long as it is unnecessary to tax the food of the people for the purposes of government, we cannot complain of its not being taxed for ours; but the moment you find it necessary to seize *one* part of their bread to pay their debts or their expenses, we insist on your seizing *another* equally large for ourselves.”

The mis-called protecting duties on manufactures are equally insufficient to maintain a claim for a duty on foreign corn. In the first place, the principal classes of manufactures which are “protected” by duties at present, viz. cotton and woollen goods, hardware and earthenware, can be made so much cheaper in England than elsewhere, that, instead of importing, we are the principal and the only great exporters of them. Consequently, the statutes holding out a threat of duties on the importation of such goods, are, in most cases, completely inoperative.

And in the second place, the business of the legislator is not—as those important, but not only, classes of society, the agriculturists and manufacturers, seem always to assume—to take care that they both injure the community and themselves with exact equality; but to prevent, as far as practicable, either of them, from injuring the nation or itself at all.

The landlord, whose interest is completely distinct from that of both those classes, would possibly, under free trade, be peculiarly injured, to a small extent, by such protecting duties on manufactures as are operative. Such protecting duties operate as a bounty on the importation of all unprotected commodities (in which corn would then be included), in preference to those on which import duties are imposed. This, however, affords no ground for a similar duty on the importation of corn. Instead of endeavouring to counteract the duties on manufactures by others on corn, the interest of all classes (the landlords included) require, that they should both be abolished.

We come now to consider whether the claim for a *countervailing* duty on corn can be maintained on the ground of any *extra* taxation of agriculture. With due deference to Mr.

Ricardo, and the other eminent men who have agreed with him, we think that the fact that agriculture is more heavily taxed than the other branches of production, would not, if proved, justify the imposition of a countervailing duty on foreign corn. It is quite true that unequal taxation without such duty would, as those gentlemen argue, give a forced direction to capital, and diminish its productiveness. It would also occasion a loss to the landlords, from which the consumer would gain nothing. But, on the other hand, *unequal* taxation, *with* a countervailing duty, would also give a forced direction to capital; would tax consumers unequally, falling heaviest on those, the largest part of whose income is expended in agricultural produce (in other words, on the poorest), and would lower profits more than if no duty existed, and therefore obstruct more the accumulation of wealth.

These evils appear to us to preponderate very considerably over the evils of unequal taxation uncountervailed, and we therefore conclude, that inequality of taxation, with a countervailing duty, is even worse than inequality without a duty, and that the only proper course is, to equalize taxation.

A case will, we think, show that our view is a correct one.

Suppose the growth of corn in an importing country to be taxed 15 per cent, whilst every other branch of production is taxed 10 per cent only: such taxation, if unaccompanied by a countervailing duty on foreign corn, would operate as a bounty of 5 per cent on importing corn, instead of growing it at home. It would therefore be the interest of our capitalists (as in the case we before put) rather to employ their capital in producing cloth, even with  $4\frac{3}{4}$  per cent more labour, to purchase corn, than in growing it at home, and paying the duty. If the price of corn should rise nearly 5 per cent, the landlord would obtain almost the same rent as before, but if, as would probably be the case, the rise in the cost of foreign corn, occasioned by the forced extra demand, should be but 1 or 2 per cent, 3 or 4 per cent of the tax would fall on the landlords, and the remainder on the consumer. The loss to the landlords, and the additional price on the extra importation, would be total and uncompensated loss to the community.

These are the evils arising from the absence of a countervailing duty, under unequal taxation.

If a countervailing duty of 5 per cent were imposed on foreign corn, there would not, as in the other case, be any positive loss of *wealth* to the community; but the unequal taxation would occasion a much greater loss of enjoyment than if no countervailing duty existed, and would discourage accumulation more.



The capital of the country would still be *capable* of producing as much corn, &c. as if taxation were equally spread, but the inequality of taxation would offer a bounty equal to 5 per cent on consuming one class of commodities rather than others, which might be more the objects of desire. The consumer of corn, too, would be taxed 15 per cent, while his more opulent neighbour, who could expend a large proportion of his income in houses, in carriages, and in the expensive manufactures, would be taxed only 10 per cent.; and, finally, the additional taxation of 5 per cent would ultimately fall upon profits, to the injury of the farmer and manufacturer, and the diminution of the motives to accumulation.

This depression of profits, unfairness of taxation, and interference with the choice of articles of consumption, are, we repeat, greater evils than the loss of rent and diminished productiveness of capital, which inequality of taxation uncountervailed would occasion. And therefore, though the landlords would have very just ground of complaint against the legislator who should open the ports to foreign corn duty free, while taxation should be unequal, the capitalists and consumers of corn would have still more reason to complain, if he should impose a countervailing duty. The interests of the nation at large would require neither: they require that taxation should be equalized.

The case against *countervailing* duties is but little weakened, if it be denied that they produce *more* evil than unequal taxation would produce without them. For it cannot be denied that they produce the evils we have attributed to them; and it must be admitted, that unequal taxation *with* countervailing duties is less advantageous to the community than equal taxation *without them*; which is quite enough to show that no inequality of taxation can afford a reason for establishing countervailing duties, though a small inequality is sufficient to justify a claim for equalization.

We deny, then, that any extra taxation on agriculture would justify a countervailing duty. But further, even allowing that it would, we maintain that the extra taxation on agriculture, at the present time, is not sufficient to justify a duty of more than 2s. 6d. per quarter.

The object of a *countervailing* duty, it must be remembered, is, to prevent any unequal taxation which exists for the general purposes of government, from giving an artificial and therefore a less advantageous direction to the employment of capital. If a tax do not discourage the employment of capital in agriculture, or if it be imposed on agriculture, not for the general purposes of government, but to defray particular expenses

occasioned by agriculture itself, it does not fall within the reason given for a countervailing duty. Now, the taxes complained of as bearing either wholly or unduly on the cultivation of land, are, the Land Tax, Poor Rates, County Rates, and Tithes. And all of these, except a part of the tithes, are excluded on one or other of these grounds.

The land tax is a tax not on agriculture, but on *rent*. Whatever be the quantity of capital applied to the land, the tax still remains the same; it therefore does not at all affect the price of corn, nor the employment of capital, but falls wholly on the landlord in the shape of diminished rent; consequently, it can afford no ground for a *countervailing* duty. Indeed, we may go further, and say, that no tax on rent, however heavy, if of long standing, should ever be taken off, or even diminished, while the state requires a revenue equal to the amount it yields. Taxes on profits discourage the accumulation of capital, and taxes on wages either fall upon profits or diminish the comforts of the mass of the people, but taxes on rent, when of long standing, produce evil to no one. The state merely takes advantage, in particular cases, for the benefit of the people, of a natural fertility of soil, which, in other instances, it permits private individuals to appropriate to themselves. Where, indeed, land has long been appropriated, where it has been purchased with the produce of industry, and its owner has calculated on the receipt of rent, it would be as unjust to deprive him of rent as of any other property equally valuable. But where a tax has long fallen on rent, where the landlords have inherited or bought their estates subject to the tax, they have no better claim to have it taken off, or to be in any way compensated for it, than their tenants have to the abolition of all rent whatsoever, or to a bounty in compensation for its payment.

With respect to poor-rates, it cannot be denied that they are much higher in the agricultural than in the manufacturing districts. But it must be remembered, that the practice of paying part of the wages of agricultural labour from the poor-rates is almost universal. The agriculturist pays more in poor-rates than the manufacturer, but he pays less in wages; he even shifts a part of the wages of his labourer on the other parishioners, which renders it probable that they act on the whole rather as a bounty on agriculture than as a burthen.

The county rates are taxes raised to defray, not the general expenses of the state, but those of a particular district. The law deals with perfect fairness between agriculturists and manufacturers: it obliges each district to pay its own expenses; and therefore, any inequality which can be pointed

out between their weight in agricultural counties and in manufacturing, must be considered not as created by the law, but as occasioned by some difference in the occupations themselves.

In truth, the greater burthen of the county rates in agricultural counties, is occasioned partly by causes inseparable from agriculture, such as the greater length of road which it is there necessary to keep up in proportion to the population, and the greater distance between the places for reception of criminals ; but chiefly by the mal-administration of the landlords themselves, who crowd the gaols with the victims of their game laws, their magisterial ignorance, carelessness, and tyranny ; and demoralize the people by degrading them to dependence on poor-laws for support, and accustoming them to the society of the idle and the vicious in prisons.

In so far as it arises from the first source, the excessive burthen of county rates affords no better claim for a countervailing duty than any other of the expenses of cultivation ; and in either case the effect of such a duty would be, to encourage a branch of production on account of its expensiveness to the country, and to produce the direct contrary of the only legitimate purpose of a countervailing duty.

That part of the burthen of county rates which is occasioned by the mal-administration of the landlords themselves affords a still less plausible reason for an import duty on corn. The landlords are the persons who would be chiefly benefitted by such a duty ; and it surely is too much, to found a claim to have the price of corn raised for their benefit, upon a small indirect burthen on their pockets, occasioned by their exclusive privilege of shooting partridges and poachers, of manufacturing jobs for their friends, forming good roads to their estates, and driving away ennui by amateur justice-work and county legislation, at the expense of the virtue and happiness of those subjected to their yoke. The forced direction, if any, which is given to capital by the game laws and unpaid magistracy, merely adds one to the numerous and cogent reasons for abolishing the former, and taking the business of local legislation and the administration of justice out of the hands of the latter.

The tithe is the only tax which affords any plausible ground for a countervailing duty : it is the only tax of any importance of which the undue burthen on agriculture can be justly attributed to the legislature.

The tithe would certainly justify a countervailing duty to the extent to which it really affects agriculture, if a countervailing duty were not, as we have shown, more injurious than



inequality of taxation itself; and if there were not a more beneficial mode of remedying the evil, namely, by a commutation of tithes.

Till lately, it has been always assumed, that the tithe in England falls wholly on the consumer, or, in other words, that it raises the price of corn one tenth, in which case, if the principle of countervailing duties were admitted, the tithe would justify a duty equal to one tenth of the price of corn.

This opinion has been erroneously supposed to be justified by Mr. Ricardo's doctrine of tithes. All that Mr. Ricardo's doctrine amounts to is, "that a tithe imposed on *all* the land of a country importing no corn, must, *if the consumption of corn continued the same*, raise the price of corn *one tenth*." This principle cannot be impugned. But an able writer in No. 88 of the Edinburgh Review, and in the Scotsman, Nov. 1st, has the merit of having first brought to the notice of the public, that the circumstances essential to Mr. Ricardo's case "are not the circumstances under which the agriculturists of Great Britain are, or ever have been placed," and consequently that the tithe in Great Britain does not, and cannot fall *wholly* on agriculture, but is, partly at least, a burthen on *rent*. The reasons given are two: that a large proportion of the land in England and Wales, and all Scotland, is *tithe free*; and that the consumption of corn would, in fact, be somewhat diminished by the rise in price consequent on the tithe.

We however think that he has over-estimated the proportion of the tithe which these causes would throw on rent.

He states, on the authority of the article on England, in the Edinburgh Encyclopedia,\* [vol. ix. p. 32] written by Mr. Stevenson, the Librarian to the Treasury, that nearly one third of the lands in England and Wales are tithe-free, and this, added to the whole of Scotland, he considers very fairly as amounting to somewhat more than half the cultivated land in Great Britain. He then endeavours to show, but, as we think, unsuccessfully, that one half of the land being tithe-free, necessarily throws the *whole*, or almost the whole, of the tithe upon the landlords. He reasons thus: "Only half the culti-

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\* Mr. Stevenson estimates the total annual value of all the land in England and Wales, in 1815, at 29,476,840*l.*, of which, lands of the annual value of 498,823*l.* paid only a low modus. Land of the annual value of 856,183*l.* were tithe-free in part; and land of the annual value of 7,904,378*l.* were wholly tithe-free. The proportion of tithe-free land in cultivation has increased somewhat since 1815, by the amount of the new inclosures; since it has long been the practice, by giving a part of such land to the church, to keep the remainder tithe-free: and in some instances the whole parish has been freed from tithe by the same means.

vators are affected by the tithe, and though they should, in order to escape its operation, restrict their cultivation one tenth, the supply of corn would only be reduced one twentieth part, and prices, supposing the demand to continue stationary, could only rise in that proportion. But, in point of fact, they would not rise in that proportion; for as the cultivators of the non-tithed lands were realizing the common and average rate of profit, they would realize more than that rate when prices rose *one twentieth*, and additional capital being in consequence attracted to the soil, prices would be reduced to their old level, or very near it, and the burthen of tithe would fall almost wholly on the landlords."

The argument amounts to this: "Supposing the *demand* to continue the same after as before the imposition of a tithe on one half the land of a county, and supposing that *no extra cultivation* of tithe-free land took place in consequence, the price of corn could only rise *one twentieth*. And as tithe-free land had previously yielded the ordinary profits of stock, it would, in fact, when prices rose one twentieth, be more highly cultivated, and reduce the rise to much less than a twentieth."

The flaw in this reasoning is obvious, when the suppositions implied in the author's statement are expressed. It is evident that, supposing cultivation and demand to remain unaltered by the tithe, the price of corn must rise one tenth (instead of one twentieth, as the author supposes), to induce the cultivator of the worst of the tithed land in tillage to continue cultivation. And it is only by the increased cultivation of the tithe-free land, and diminished cultivation of the part tithed, that the price would be prevented from rising one tenth instead of one twentieth only.

It appears to us, that half the land in Great Britain being tithe-free, may be fairly considered as throwing *half* the burthen of tithe on the rent of tithed land, and leaving half to fall on agriculture. It is evident, that tithe, when imposed only on half the land in cultivation, cannot raise the price of corn one tenth, because the tithe-free land, being immediately more highly cultivated, would render it unnecessary to cultivate the tithed land so highly as before. And it is, we think, equally evident that such a tithe must raise prices to some extent, because the tithe-free land could not admit of being more highly cultivated than before, without some rise in price.

Every increase of cultivation on the tithe-free land would throw some tithed land out of cultivation, and diminish the rise of price, but it would at the same time raise the cost of production

on the untithed land, and thereby enable some tithed land to be retained in cultivation, which must otherwise be abandoned. This process would be continued till the difference between the fertilities of the lowest land in cultivation on the two classes of land, should become *one tenth*. If the state of cultivation should be such, that the increase in the cost of production occasioned by every additional quarter of corn grown on tithe-free land should be just sufficient to admit of one quarter being grown on tithed land, which must otherwise be abandoned, the point at which prices would settle would, supposing no diminution of consumption, be one-twentieth above the former price. If the cost of production occasioned by the production of a quarter on the new land brought into cultivation would be sufficiently great to admit of more than one quarter being grown on tithed land which would otherwise be abolished, prices would rise more than a twentieth, and *vice versâ*.

This being the principle, we think we may fairly conclude, in the absence of data to determine the precise proportion, that one half of the tithe in England cannot possibly interfere with the price at which corn can be grown, but must necessarily fall on the rent of the tithed land, and that, therefore, the utmost amount of countervailing duty which, even if the principle were admitted, would be justified by the tithe, is about five per cent, or 2s. 6d. per quarter.

The half of the tithe which now falls, and has always fallen, upon the landlord, so far from entitling him to a duty on importation, would make it highly expedient, in case of the abolition of tithe, to impose a fixed tax on tithed land equal to the value of half the tithe paid by its produce. There cannot be a more unexceptionable mode of raising a revenue, than by intercepting such unearned and unexpected gains as would otherwise accrue to the unproductive classes.

Having now considered most of the principal arguments in favour of restriction on the trade in corn, and shown that no duty can afford protection to agriculture, or be any thing but injurious to the agriculturist;—that, except where agriculture is unequally taxed, landlords and tithe-eaters are the only classes who can possibly derive any benefit from a duty on foreign corn, or escape serious injury from it;—that the evil produced by such a duty, is necessarily very much greater than the advantage to the landlords;—and that even where agriculture is unequally taxed, the evils of a countervailing duty are greater than those of unequal taxation, or at least, may be remedied much more advantageously by equalizing taxation; and, therefore, that none of the reasons given are sufficient to



justify the imposition of a *duty* on importation ; we will conclude this part of our article, by examining whether the landlords have any claim for *compensation* from the community, for the loss which would be occasioned to them by the abolition of corn laws for the general benefit.

An import duty on foreign corn, it must be remarked, is not a compensation, but a partial or total perpetuation of the principal evils complained of, viz. dear corn, low profits, retarded prosperity, and waste of labour and capital in cultivating at home, at a great expense, what might be imported at a smaller.

All that can in any case be possibly justified under the name of *compensation* is, an advantage equal to the value of the loss sustained by the party compensated at the time of the loss ; and this, in ordinary cases, individuals whose interests are prejudiced by laws passed for the public benefit, are certainly entitled to, where compensation can be afforded without preponderating expense or inconvenience. In the present case, however—besides considering it doubtful whether the exchange of the present baneful corn law for a perfectly free trade would on the whole be disadvantageous to landlords, and thinking it absolutely impossible to devise a mode of compensating the landlords or farmers which would not create expense and inconvenience more than counterbalancing the advantage to them,—we are of opinion, that the mode in which the landlords acquired their advantage is alone sufficient to utterly disqualify them for claiming any compensation for its loss.

Possessed of absolute control over the government, unchecked by any thing except fear of the people, they employed the legislative and executive powers in taxing the community, whom the proper business of government is to protect, for their own private advantage. During several years, they have reaped gains to which they were in no way entitled ; and therefore have surely no just ground of complaint at being simply reduced, for the future, to the state in which they would always have been, but for their undue influence in the legislature. It cannot be maintained, as a general principle, that all men are to be sustained by the legislator in the enjoyment of whatever they may become possessed of, properly or improperly ; and we know of no reason for making an exception of the country gentlemen.

In whatever way this question may be decided, we doubt whether to supersede the existing clumsy law by a system even of perfectly free trade, would occasion any balance of injury to the landlords ; and we are certain that the existing corn laws are mischievous to the landlords and agriculturists in so many

ways, that the balance of injury which such a change would occasion must at most be very small.

It would be difficult, perhaps impossible, to form any thing like a correct estimate of the various contending effects of such a measure : every approximation, however, to an estimate, must have some effect in preventing the landlords from availing themselves of the universal tendency to magnify every evil of which the limits are unknown.

The fall in price which the abolition of the existing corn laws would probably occasion, appears, from all the evidence we can collect, to be about 10s. per quarter *at most*, or from 60s. to 50s. We have here taken our estimate of the present remunerating price from what Mr. Gooch, and Mr. Baring, and most of the landlords, seem to consider remunerating at the present time, though the average of the six years ending with 1825 was only 57s. 3*d.* per quarter ; and 50s. is, we fear, quite as low, and perhaps a lower price than that at which wheat, equal to the average of English wheat, could be imported, even if the trade were perfectly free.

We endeavoured, in a former Number [vol. iii, p. 405 — 408.] to form, from the prices of wheat for several years in the principal corn-exporting ports of Europe and America, an estimate of the average price at which wheat, equal to English, could be imported into England if the ports were open without duty. The result appeared to be, that the importing price of wheat would probably in such case be from 50s. to 54s. per quarter. This estimate seemed confirmed by the prices at Rotterdam (where, till lately corn has been freely admitted) for the ten years from 1815 to 1824. And the Edinburgh Review, which had previously estimated the importation price very differently, has since seen reason to adopt a similar estimate. Our calculations are further corroborated by the information collected by Mr. Jacob. That gentleman estimates, that wheat could, in average years, be imported from the maritime provinces of Russia at 43s., from Cracow at 45s. 6*d.*, and from Warsaw at 48s., making no allowance for the increased cost of production which would probably be occasioned by a permanent and extensive demand for England, for the inferiority of the wheat to the average of England, nor for the risk of damage during the voyage, which Mr. Whitmore estimates alone at from 4s. to 5s. per quarter more than is covered by the insurance, the underwriters being liable for no injury to the corn which is not occasioned by the total loss or stranding of the ship.

Mr. Whitmore, indeed, seems to doubt whether the wheat contemplated by Mr. Jacob is the best wheat in the respective markets mentioned, or the average only ; and upon the suppo-

sition that the best is meant, concludes that average wheat which is worth from 5s. to 8s. per quarter less than the best, might pay a duty of 10s. per quarter, and yet sell at about 55s.

A careful perusal of Mr. Jacob's Report will, however, we think, leave no doubt that the *average* wheat sold in the Prussian and Polish markets is that of which he speaks: He nowhere states the contrary; and the tables of prices on which his estimates are founded, profess to be tables of the *average* prices in the respective markets.

So far are we, indeed, from considering that any allowance should be made for any superiority of the grain contemplated by Mr. Jacob, over the average of that of England, that we believe some allowance is required on the other side for its inferiority, the average quality of wheat sold at Dantzic being considerably inferior to the average quality in the English markets.

Estimating, then, the average price at which corn could be imported at 50s., and the present remunerating price at 60s., the fall in the price of corn, which the abolition of the existing Corn Laws would ultimately occasion, would be one sixth, or 10s. per quarter.

The loss which the abolition of corn laws would cause to the landlords is measured by the diminution in rent; and that to the farmers, partly by the diminution in rent, and partly by the decrease in cultivation, which, if it took place to any great extent, would cause the farmer a considerable loss of capital, and drive both him and his labourer from an employment for which they had been educated, to others which they would have to learn.

We think, however, that both the diminution of rent, and the quantity of land which would be thrown out of cultivation, are in general greatly exaggerated. If the consumption of corn would be diminished, that of other kinds of raw produce would be greatly increased. The fall of 10s. per quarter in the price of corn would alone enlarge the consumer's power of purchasing other commodities very considerably; and the fall which must in consequence take place in other agricultural produce would augment that power still more.

The prohibition, too, of foreign corn, cuts off almost entirely the demand for the manufactures which would otherwise be sent to pay for it, and drives the agricultural countries to manufacture for themselves, and to contrive substitutes for the colonial produce which they can no longer procure from us. Its removal would consequently be followed by an increased



demand for the agricultural produce employed as the material of our manufactures.

And, lastly, restriction, by raising the cost of agricultural produce at home, and lowering it in the corn countries, operates as a bounty nearly equal to the rise in England and fall in those countries, taken together, on the importation of all sorts of agricultural produce, but corn, from the latter; confers on the corn countries an advantage to the same extent in competition with our agriculturists in every market in the world, and on every other country an advantage nearly equal to the rise in England alone.

It is true, this bounty, like other bounties, may in many cases be insufficient to force the trade; it is also true, that as far as the landlords are concerned, its effects may be counteracted, by duties on the importation of raw produce on the one hand, and by bounties on exportation on the other; but nothing can prevent the loss to the community, except the abolition of corn laws. We may prevent foreigners from underselling Englishmen in our markets by duties on importation, and induce them to consume our produce by paying part of the price ourselves in the shape of bounties, but the duties must in both cases be drawn from the pockets of the English consumer.

In the actual state of things, the corn laws have a very important effect on the demand for our other agricultural produce, at home and abroad.

Messrs. Almonde and Behrend, of Dantzic, advised their mercantile correspondents in 1824, that the consumption of British colonials and manufactures did not then exceed *one half* of what it was before the closing of the English ports against their corn. And Mr. Gibson, the British consul there, reports officially, "that the imports to Poland have decreased much of late years, from the diminished means of the people to buy."—*App. to Jacob's Rep.* No. 3.

In East and West Prussia and Pomerania, "which have never yet been manufacturing districts, attempts have of late been made to make *woollens* and *coltons* in manufactories where machinery was to be employed. And an instance is mentioned by Mr. Jacob, of a nobleman who "cultivated potatoes very extensively, and by converting them into *starch* and *treacle* made that land yield a profit which, had it been devoted to corn, would have produced a loss . . . . He assured me that the treacle paid him well, and that he could afford to sell it at 18s. per cwt., whilst that from the West Indies cost 24s. I could perceive no difference between the sweetness of this treacle and that from the tropics, but it has less consistency."—*Rep.* p. 15.

In Poland the effect has been similar. The government and capitalists have of late exerted themselves to establish numerous manufactories. "Within the last six years, more than 250,000 foreigners, chiefly Germans, and almost all manufacturers," encouraged by privileges with regard to taxation, &c., have emigrated to Poland. The establishments formed by these means are chiefly on a small scale, and their principal product is coarse woollen cloth for the Russian market. "But some of them of a higher class for making finer *cloths* have imported machinery of various kinds from England, or have copied it from what has been imported; I did not hear of other goods than *woollen cloths* made for distant markets; but of late, establishments have been formed for making *linen, cottons, iron-ware, and paper*, solely for domestic consumption."—*Rep.* p. 37.

These few facts may serve to show that the increased demand occasioned by free trade, for raw produce, for the purposes of our manufactures, would be something considerable; and the following will prove that our corn laws have a considerable effect on our power of competing with foreigners in the supply of agricultural produce itself.

Wool is, next to corn, one of the most important articles of portable raw produce. Of this Mr. Jacob says [p. 15], "I had reason to believe, though not from official sources, that the number of sheep between 1819 and 1824, had (in East and West Prussia and Pomerania) increased at the rate of from 20 to 25 per cent, and that the proportion of fine-woolled sheep to those of coarse wool had been augmented beyond that proportion." The British consul at Dantzic also reports officially, "that *flax* is cultivated now to a much greater extent than formerly; that the export of *butter* is increasing very much, and that *rape-seed* is attracting much attention."—*Rep.* p. 22.

It also appears, from the official returns of imports and exports, that wherever peculiar circumstances have not existed to counteract the effect of our corn laws, the importation of the unprohibited sorts of agricultural produce has increased, and the exportation diminished, while the exportation of colonials also has greatly declined.

Of *wool*, the average quantity annually imported during the nine years ending with 1824, was 17,036,373 lbs. But the annual importation during the nine years ending with 1815,\* was only 9,077,546 cwt. The year 1825 has been purposely

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\* The records of the Custom-house for 1813 were destroyed by fire; 1806 is therefore included in the average instead.

omitted in the calculation, on account of the speculation in that year, or the average importation of the period since the passing of the corn-bill of 1815, would have been swelled to a much greater numerical quantity, for 43,000,000 cwt. of wool were imported in that year alone. It has also to be remarked, that in 1819, a duty of *sixpence* per lb. was imposed on foreign wool, and this duty was paid during the remainder of the latter period, whilst the highest duty paid in the nine years ending with 1815, was *one penny* per lb., and during part of that time the duty was only a *halfpenny* per lb.

Of *flax*, the importation has increased, and the exportation decreased since 1815. During the nine years ending with 1824, we imported annually 500,300 cwt., and exported 11,254 cwt. But during the nine years ending with 1815, our imports were only 400,471 cwt. per annum, whilst our exports were 30,965 cwt.

The annual average import of *tallow* in the nine years ending with 1824, was 628,008 cwt. In the nine years ending with 1815, however, it was only 403,040 cwt. The importation of 1825, omitted in the average, was 1,089,256 cwt., as appears from a parliamentary paper made up to the 10th October in that year.

The quantity of *coffee* exported annually during the nine years ending with 1824, was only 420,348 cwt.; during the nine years ending with 1815, it amounted to 565,576 cwt.

Of *raw sugar*, the annual exportation during the period since 1815, has been but 480,866 cwt., whilst during the nine years preceding it, the exportation was 641,652 cwt. per annum.

When we consider that 10s. is the maximum of the fall which would take place in the price of corn by the introduction of free trade; and when to this consideration is added the fall in the price of horse-food, manure, seed, &c., and the increased demand for agricultural produce from the various causes indicated above, we think it must appear sufficiently clear, that if the abolition of the corn laws would occasion the abandonment of any land, the quantity must be very small.

It may, however, be said, that though but little land would be abandoned, yet much would be thrown into pasture, and the demand for agricultural labour would thereby be materially diminished. And it may also be maintained, that rent would fall considerably, though but little land should be totally abandoned, from the diminished application of labour to the better lands. It may be answered, in the first place, that the diminution in the demand for agricultural labour arising from the diminished cultivation of rich land would be inconsiderable,



since the diminution would be chiefly effected by the decreased use of expensive manures; and, in the second, that though some diminution in the demand for agricultural labour might arise from the substitution of pasturage for tillage, yet the amount could not be very great; and the decrease of agricultural demand would be accompanied by a more than equal increase of the demand for manufactures.

It is true that the abandonment of a small quantity of cultivated land would produce a more than proportionate diminution in rent. But, to set off against this, there is a consideration of great importance, which we have not yet noticed; namely, the frequency, under the present law, of failures in the payment of rent. If the harvest be plentiful, prices must fall so much below the cost of production before corn can be exported, that the farmer is ruined, and can pay no rent. If, on the other hand, the harvest be very bad, corn is admitted freely, and without limit, and the farmer is again rendered unable to pay. It is only when there is a medium crop, that the landlord can depend on receiving his rent. Were the trade in corn free, the prices in England would be so nearly equal to those of the continent, that so soon as prices began to fall, we could export; so, if we had a bad harvest, as soon as prices began to rise, we should begin to import: the price of corn would thus be kept much steadier; and rent calculated on corn at 50s. would be far more regularly paid. When we add to the extreme probability that the annual rent of land would fall but little, the certainty that the failures in payment of the rent agreed upon would be less frequent, we do think it must appear that the rent actually received from the land would be but little, if at all, reduced. And when to this is added the advantage to the landlord as a consumer, and the vexation and difficulties which arise from expectations disappointed; we consider it beyond all doubt, that they would certainly not be worse off, and think, on the contrary, that they would rather be better off under a free trade, than they are now.

On the farmer the effect of the repeal would be gradual. And he would be compensated for the fall in the price of corn, at least in part, by the increased demand for all other agricultural produce. Mr. Whitmore, indeed, is of opinion, "that it is far from improbable that the agricultural interest would derive great immediate benefit by an alteration of the corn laws: it would restore confidence, lead to a renewal of trade, and a consequent demand for that part of the produce now so much depressed in value, in proportion to the amount of its produce. The articles to which I allude, too, are amongst those in which the agriculturist of this country possesses an advantage which

cannot be diminished by the freest system of trade in foreign corn. Neither meat, nor the products of grass-land in their fresh uncured state, can be imported from a distance. With barley, too, of home growth, there is little competition; foreign barley will generally not pay for malting under our present duties and excise laws; and the consequence is, but little is imported. The annual average import of foreign barley from 1811 to 1821, after deducting exports, only amounted to 93,916 quarters."—p. 46.

Farmers would also be benefitted, as consumers, from the lowness of price, after the first year or two; and if the increased steadiness of price be considered, we doubt much whether the *immediate* evils to them, or to agricultural labourers, from the abolition of the corn laws, would exceed those to which they are continually liable under the present system from a few years of great abundance and consequent low prices.

Mr. Whitmore, however, expresses fear, and we think justly, that the farmers, most of whom are exceedingly ignorant, and very much alarmed by the gloomy predictions of the landlords and the present low price of corn on the continent, would, if it were proposed in parliament to throw the trade open, so firmly expect an extraordinary depression in the price of corn, that they would immediately rush into the market, sell their corn at ruinously low prices, and, by thus encouraging consumption, perhaps occasion a famine. The mischief here to be prevented is, a panic arising from the expectation of great immediate depression in price. To effect this, it would be advisable to fix a temporary graduated duty, on all foreign corn imported while corn should be below a certain price; so as to prevent the possibility of any great immediate depression in the price of corn. Suppose, for instance, that corn were admitted duty-free till the price in the home-market fell below 50s., and that 1s. per quarter duty were imposed for every 1s. which wheat in the home-market should sink below 50s.

The immediate effect of the abolition of the corn laws would be to depress somewhat the price of corn; but from the smallness of the stock in store in the different corn countries, the price would soon recover, and would probably not be lower than 55s. or 56s. three or four months after the abolition. As the only use of the measure proposed is to prevent a panic among the agriculturists, and as the existence, for any length of time, of a duty which was expected to be ultimately taken off, would, by creating an expectation of a fall in price, prevent all speculation in corn of home-growth, and diminish its cultivation, provision should be made for the cessation of the duty as soon as its immediate

object should have been effected. If corn should rise above 50s., after sufficient time had been allowed for importation to have all its immediate effect in depressing the market, the price at which corn might be admitted duty free might be permanently reduced 1s. below 50s. for every shilling that the price of corn should rise above 50s., and thus we should probably arrive at a perfectly free trade in a few months.

This, as we consider ourselves to have established, is the only modification which should be made in the principle of a perfectly free trade.

As, however, we have no doubt that the landholders, who are the real rulers of our nominally mixed, but really aristocratical, government, will insist on taxing our corn for their own benefit, it is necessary to consider in what way an advantage can be given to them with the least possible injury to the rest of the nation.

The measures which have been proposed for this purpose may be divided into *ad valorem* duties and duties of so much per quarter.

A *fixed* and invariable duty *per quarter* is, we think, preferable to a fixed *ad valorem* duty. The latter would offer the greatest obstruction to importation when prices should be highest, and the people starving from scarcity, and least when prices should be lowest, and the farmers consequently in great distress: 10 per cent duty, with the price of corn at 50s., would offer an obstruction to importation equal to 5s. per quarter; but if our harvest should fail, and prices should rise to 100s., the law would increase the obstruction to 10s. per quarter; and, on the contrary, if our crops should be so abundant that the price fell to 25s., the law would admit of importation on the payment of 2s. 6d. per quarter.

An *ad valorem* duty also requires the continuance of the system of averages; and although it is undoubtedly true that, "When averages are to regulate the amount of duty, they are very different in their effects, than when upon them depends the question, whether any trade in corn is to exist or not"; yet there are always considerable evils attached to them. The expense of collecting the returns, and striking the averages, is far from inconsiderable; and the averages are always, and must necessarily be, liable to be affected by fraud or accident. The temptation to fraud is, doubtless, much greater at present, than it would be under a moderate *ad valorem* duty; but either the average must be struck at short intervals, and then the facility of fraudulent operations on the averages is very great; or the averages which are to govern the duty must be struck at distant



periods, and then the duty becomes, in reality, not an *ad valorem* duty, but a duty of so much per quarter, varying every six weeks, three months, or whatever other period is chosen, and varying, not according to the price corn bears when imported, but according to the price it had borne some time before. The facility of fraudulent operations on the averages is very considerably increased by abridging the intervals at which they are struck. To affect, to a given extent, the three-monthly averages, requires fraudulent sales to a much greater amount, than to affect the weekly average of the same market to the same extent.

The principal question is at present between a *fixed* and invariable duty of a given sum *per quarter*, and a *graduated* scale of duties of the same nature, varying in an inverse ratio with the price of corn.

Mr. Whitmore advocates the latter, and proposes the following scale of duties :—

	Duty.
‘ When the price is at or under .. 40s. ....	25s.
From ..... 40s. .. to .. 45s. ....	20s.
- - - ..... 45s. .. to .. 50s. ....	15s.
- - - ..... 50s. .. to .. 55s. ....	10s.

‘ I should be disposed to add to this, that, on the price reaching 65s., the duty should be reduced to 5s., and on its rising to 70s. should cease altogether.’—*Whitmore*, p. 72.

This, however, is only to be a temporary measure ; and Mr. Whitmore expresses his opinion, that it will be necessary, ultimately, to approximate more nearly to free trade.

A graduated scale of duties, varying in an inverse ratio with the price of corn, has an advantage, in one point of view, over a fixed duty equal to the amount of the *ad valorem* duty in average years. The fixed duty opposes the same impediments to importation, whatever be the price of corn. The graduated duties decrease their opposition to importation as corn rises, and increase it as corn falls, in price, and therefore have a tendency to produce greater steadiness of price than the fixed duties ; they are, however, necessarily encumbered with the inaccurate and expensive apparatus of a system of averages.

The rise in the duty, too, as the price of corn sinks below the average, makes an important addition to the difficulties of the foreign grower, in making his calculations with a view to the English market. If England has an average crop or an average foreign supply, his corn is admitted at 10s. duty, and sells at 50s. ; whereof 8s., or 10s., are absorbed by expenses of transport. But if his crops, or those of England, are abundant,

and prices fall here to 44s., a duty of 20s. is imposed on importation, and corn, must fall at the exporting ports from 30s. or 32s. (its supposed price in average years) to 14s. or 16s., before any can be imported ; leaving a difference between the prices in England and in the exporting countries, of 28s. per quarter : while, if importation had been permitted at a fixed duty of 10s. per quarter, it would have taken place till the difference in price in the two countries had become no more than 18s.

The necessary conclusion is, that the graduated duties would discourage the growth of foreign corn, which the fixed duty would permit to be produced for our market ; and in case of a bad harvest, prices must rise sufficiently in England to enable its population to obtain the corn which had been grown for the supply of other countries. The average price of corn in England would, therefore, certainly be raised more by the former than by the latter duty, and we think that the range of fluctuations in price would also be extended.

Some of the advocates of corn laws have, however, endeavoured to maintain, that the compelling a country to produce a larger portion of its supply of corn than it would otherwise do does not enlarge the limits of fluctuation. They say, “when it is argued, that if a country drew a large portion of its supply from other countries it would be able, in case of a failure of its own harvest, to supply the deficiency from foreign countries more easily than if it produced at home a larger proportion of its own consumption, it is implied that more corn is grown in the world in the one case than in the other.

This supposition, however, is not at all necessary ; the ground on which the contrary opinion rests is, that the narrower the limits within which a given quantity of corn is grown, the more probable is it that the same causes of failure will operate upon the whole crop. If, therefore, the nature of the corn laws of England were such, that, instead of growing at home all the corn required for its consumption, a large proportion of its supply were habitually grown in other countries, the chances of the failure of the whole crop sown for the English markets would be diminished, and a failure in the home-growth would therefore require a smaller extraordinary importation than if the ordinary importation of England were less.

We consider the discouragement of the cultivation of foreign wheat for the English market a sufficient reason against the *increase* of the duty on importation as prices in the home-market fall *below* the average ; the same objection, however, does not apply to the diminution of the duty as the prices rise above the average ; and it therefore remains to be considered,

whether a fixed duty, or an equal duty on corn when at the average price, to be reduced gradually or removed at once as prices rise, is to be preferred.

The decision, it appears to us, depends chiefly on the amount of the duty. If the duty were as low as 4s. or 5s., for example, the trifling obstruction which it would offer to the importation of corn during famine prices would be probably far more than counterbalanced by the total abolition of the system of averages, and by the perfect security from the exercise of discretionary power by ministers, in any but very extraordinary circumstances at most. If, on the other hand, the duty were 20s. per quarter, the effect it would have on importation would be so great, that it must be suspended in times of great scarcity, and we consider that the preferable mode of removing it would be, to remove it gradually as prices might rise, instead of removing it at once either when corn should have arrived at a prescribed price, or at the discretion of ministers. The gradual diminution of the duty would tend to produce steadiness of price, by adding, to the motives to import as prices rose, the additional inducement of diminished duties. The gain to be derived from raising the averages fraudulently would be much less in the case of a gradual diminution of duty than in that of its removal at a prescribed price of corn, and the motive for cultivating foreign grain for the English markets would be somewhat greater.

Mr. Whitmore, as has been seen, proposes that the duty should vary by 5s. at a time; we however think, that if we are to have the system of averages at all, it is better to have them struck as frequently as possible, and to remove the duty more gradually. Perhaps the duty might be decreased a shilling for every shilling which corn should rise above the average price intended to be maintained.

Mr. Whitmore's plan would frequently offer a temptation of 5s. per quarter to fraudulently raising the average price of corn one shilling: the plan we propose could never offer more than 1s. per quarter. Besides, the more frequently the averages are struck, and the smaller the grades of variation in the duty are, the more perfectly will the measure repress fluctuation, and the more equitably will the importers be treated. If the averages were struck only once in six weeks, corn might rise or fall to any extent during six weeks, and yet the duty would continue to be paid according to the average of the preceding six weeks; but if the average were struck weekly, every rise or fall in the price of corn would be immediately obstructed by the variation in the duty. With a duty varying 5s. at a time, as proposed by Mr. Whitmore, an importer who should be fortunate



enough to arrive in port when the last average had been 45s., would pay only 15s. per quarter duty; but if the last average struck had amounted to 44s. 11¼d. only, he would have to pay 20s. per quarter duty, and *vice versa*.

If to the evils of varying only with large alterations in price, were added those produced by unfrequently striking the averages, the inequality of the treatment of different importers would be very considerable. Suppose the average of six weeks to be 40s., the duty for the ensuing period of six weeks would be 25s., and this duty would continue to be charged during that time, though prices should rise to 60s. or 70s. or higher: at the end of it, however, a new average would be taken, and the duty would perhaps be reduced to 10s.; and in this case the ship that should reach her destination on one day would have to pay 25s. per quarter, while her consort, which should arrive a day after, would pay only 10s. per quarter.

A bounty on exportation, equal to the tax on importation, is absolutely essential to every plan for keeping up the price of corn. It is requisite, not merely for the sake of the landlord, but for the interest of the rest of the nation, and particularly of the farmers and their labourers. The duty on importation, unless sufficient to prevent importation in average years, necessarily raises the price of corn by the amount of the duty; and it must always cause the cultivation of land which would otherwise not be sown with corn. When, therefore, an abundant harvest occurs in the importing country (supposing an average crop in other countries) it cannot get rid of the surplus by exportation, until the price of corn has fallen below the ordinary cost of production on the poorest soil forced into cultivation by the law, by a sum equal to the amount of duty on importation.

If the duty were high, such a fall would be ruinous to the farmer, and would disable him from paying his rent. Should, however, a bounty be given, equal to the duty on importation, the average price of corn would be raised to an extent equal to the duty, but exportation would be as free as before. We should, therefore, not add to the enormous evils of high-priced corn, the perhaps greater evils of extensive fluctuation.

We agree with Mr. Whitmore in believing, that whatever permanent regulation is intended to be adopted, should be adopted immediately, in preference to commencing with a high duty, and annually reducing it till it sinks to the rate intended to be continued, as Mr. Ricardo and others have recommended. The only exception we should be disposed to make to this rule is, a temporary duty, varying inversely as the price, to prevent any sudden panic among the farmers, immediately on the abo-

lition of the corn laws. Mr. Ricardo's plan was, to commence with a duty of 20s. per quarter, and reduce it annually 1s. per quarter, till it should sink to 10s. The objections to this plan are, that with moderate prices in England, the duty would be prohibitory for some years; and that, whatever might be the range of prices, the gradual decline in duty would, by producing a tendency of prices downwards, discourage the storing of corn, and subject us to the danger of a famine.

ART. VII.—1. *Jerusalem Delivered; Book the Fourth, with an Introductory Essay.* By J. H. Wiffen. London. Warren. 1821.

2. *Jerusalem Delivered; translated into English Spenserian Verse, from the Italian of Tasso.* By J. H. Wiffen, in Two Volumes. London. Hurst and Co., 1824, 1825.

WE should have been better pleased, had Mr. Wiffen chosen to dispense with the formal introduction, "that he appeared before the public in the questionable shape of a translator." Poetical versions from great prototypes, however well or ill, or indifferently executed, even embracing bare literal interpretations, all serve, more or less, to enrich any language with new phraseology, new harmony of versification, with energy and spirit of thought; while they confer upon a people's literature by far the noblest portion of the patrimony left by other ages and nations. The conceptions of departed genius, however defaced, and reaching posterity through a distant period of time, still serve to excite other spirits to aspirations beyond the circumscribed limits of the art in their own age. Thus the few ancient relics of painting, nearly effaced by centuries, and fragments of marble that lay corroding beneath the earth, were no sooner brought to light, than the waste and sublime regions of the fine arts were opened at once upon the souls of Michel Angiolo and Raphael.

Neither do new attempts at reproducing great poetical performances, under fresh aspects in repeated versions, seem to be uncalled for by the public. Although some one of the translators may, at an early period, have acquired deserved popularity in his own age, and the praises of posterity, yet the successive and ceaseless alterations inseparable from the very rapid progress of modern languages and literary tastes throw an obsolete air over that style of expression once so congenial to the writer's contemporaries. Variations in the orthography alone become gradually more irksome both to the eye and to the ear of succeeding readers.

Some few, indeed, familiar with the literature of past ages, and enabled by their talents and attainments to detect beauties resplendent through the rust of by-gone times, justly yield their admiration to Fairfax, among those translators who if they have not invariably preserved the exact features, at the same time have not lost sight of the spirit and splendor of their original. But poetry, and, more than any other, narrative poetry, ought to be adapted to all tastes ; and where its effects are impaired by any quaint or pedantic mode of expression, general readers are apt to consign both the poet and his translator to more learned and antiquarian admirers.

The wretched attempt of Hoole very probably met with success, as is observed by Mr. Wiffen, from coming before the public, coupled with the name of Tasso, and the far more effectual patronage of Dr. Johnson. Still its chief attractions must have been owing to the language, so easy and agreeable to modern readers, and to the English heroic metre, but recently transmitted as a sort of heir-loom by Dryden and Pope ; a verse with which none who aspired to the poet's wreath dared then venture to dispense ; while Johnson's oracular authority had accustomed his whole train of listeners to the doctrine, that the English possessed no heroic metre, but that of the couplet. What scope, then, for real fame and merit was still left by Hoole to his successors ; and what kind of versification is really best adapted to heroic poems, will be seen more clearly from a comparison of the description of a hero's obsequies, attended by Godfrey to the tomb :—

‘ Up with the sun he rose, and left his bed,  
To attend the funeral rites of Dudon dead ;  
Near to the camp, between a hillock, stood  
The stately tomb, composed of cypress wood.  
Above, a palm-tree spread its verdant shade ;  
To this the mourning troop the corpse convey'd ;  
With these the holy priests (a reverend train),  
A requiem chanted to the warrior *slain*.’—*Hoole*.

‘ But when the sun look'd forth on Jordan's flood,  
The funeral pageant he, lamenting, led ;  
An odoriferous ark of cypress wood,  
Near a green hill, became Lord Dudon's bed :  
The hill commands the camp, and overhead  
Shakes its dark verdurous locks one stately palm ;  
Last, white-robed priests, their requiem o'er the dead,  
Slow moving hymned ; and many a solemn psalm  
Stole o'er the sun-bright hills, till sorrow's self grew calm.’

*Wiffen*, Book 3, st. 70.



Not to disappoint the expectations of such as are likely to appreciate it, we shall subjoin the original where we consider it at all material. In this instance, however, the two translators follow it with equal exactness ; but the latter, possessing imagination paints, and possessing a heart feels, his subject. He seems to participate in the religion of his poet, and awakens corresponding emotions of solemn melancholy : while his predecessor, with feelings congealed like ice, merely arrives, by dint of long practice, at attaining the skill of a fluent rhyme. Yet his labour seems not to have been wholly thrown away upon his more fortunate competitor. It may appear of slight importance, as in itself it is, though not so to a new translator, to find his rhymes already prepared to hand, as we may gather from the passage just before cited.

How greatly the rhymes of Pope's predecessors, even of those who could boast no name, contributed to clear his path, might be abundantly shewn from the Illustrations appended by Gilbert Wakefield, altogether worthless in other respects, or only useful to convince us how much the most learned luminaries of the Universities, not excepting Bentley, "*longè, longissimè princeps omnium criticorum*," risk in point of reputation, when they venture to play the critic with the great poets of their own language ; exposing themselves to the ridicule of the world, otherwise sufficiently disposed to reverence them, so long as they continue peaceably with the Greeks and Romans in their ancient retreats :

" Where studious ease consumes their silent age  
In shadowy searches, and unfruitful page."

Doctors of criticism, less reverend indeed, but more revered as advisers-general of the whole literary community, may, we apprehend, have induced Mr. Wiffen to place his implicit faith in certain rules, which the more any writer attempts to apply, the less he succeeds, except indeed in incurring greater risk of falling under the displeasure of those very adventurous masters whose approbation he was most anxious to secure. For how could he follow precepts which necessarily clash with each other, whilst each admits many exceptions, and each exception becomes a new general rule, absolutely imperative, and yet so vague as never to hint even when, and by what practicable means, or in what sort of works it could be most efficiently displayed. If, therefore, the consequences unavoidably attending the application of such rules, have misdirected Mr. Wiffen's powers, and marred the merit of his flowing version, we can easily account for it ; since he declares, " that the manner in which he has deemed it best to attempt to execute it, cannot

be better expressed than in the dictum of the author of the 'Curiosities of Literature.'"—*Introductory Essay*, p. 86.

Were this very obsequious profession of literary creed meant only as an act of propitiation towards the dispensers of periodical benedictions and excommunications, we do truly compassionate our translator, and many other young writers endued with parts far superior to the critics whom they are thus compelled to flatter. If, on the other hand, he wrote from thorough conviction, we have another illustration in support of the known observation, that natural rights or talents are, like those of nations, doomed to be thwarted by incompetent legislators, who at the same time boast of promoting and directing them aright. That which Mr. Wiffen is pleased to dignify with the name of *Dictum*, is neither more nor less than a tissue of rules, which, from first to last, have been renounced, reproduced, and controverted, by a number of writers, for centuries. True it is, that the well-meaning author of the *Curiosities*, by contriving that each of such rules should commence with the peremptory command, "*A translator must*," has faithfully fulfilled the promise of his title-page, and rendered them very *curious* indeed.

By the first of these many rules, "*A translator must be exact, not only in giving the thoughts of an author, but even his own words, when they become essential and necessary ;*" and by the last, "*A translator must present us with the sentiments of his author, without a servile attachment to his words or phrases, but rather according to his spirit and his genius.*"—*Curiosities*, vol. 1, p. 262.

How these opposite maxims are to be reconciled, what words are thus to be preserved at any cost and sacrifice, and when words and phrases are to be omitted, in order to pursue the spirit of the author, we are, for the best of reasons, not informed. What a pity it is, that our master-critics never attempted the practice of their rules, on which their precepts so positively rest, like axioms which stand in need neither of proof nor experiment!

Could they, only by a few illustrations, shew us that this their nostrum of rules has, in any instance, proved efficacious in directing *every species* of literary composition? In a heroic poem, resembling the "*Jerusalem Delivered*," the magic of fiction is interwoven with a real ground-work, and is equally true to nature and to recorded facts: shall we, then, translate it as a romantic poem, where realities, destitute of all ideal grandeur, and human events and characters which we know never did and never can exist, nor be easily imagined to exist, are alternately

confounded and described? To translators of poems distinguished from each other by apparent and essential dissimilarities, are the same duties to be prescribed, and the same liberty allowed? With such queries it would be needless to proceed; since, indeed, we can expect no reply.

There is no hope for the triumph of any truth in the world, except from facts; nor of practical and efficacious methods in any art or science, except from the application of facts to the observations of particular examples extracted from the *chefs d'œuvre* of celebrated masters. We shall, therefore, point out the origin, and the history, not yet perhaps traced out, of heroic poetry: it is not improbable that we may recognize its essence; and whether, and how far, it may have been happily preserved by Tasso and his new translator—a fact that will best appear from a comparison with Homer and Virgil, and with their most celebrated translations into the English language.

Whether heroic poetry be composed in a series of odes, in one only, or in cantos and epic stanzas, so as to constitute a narrative, or in dramatic representations, or in a mixed state of narrative and lyric, is a matter of small importance. Similar kinds of distinction in poetry can boast no other foundation than superficial appearances in the metre. The Hebrew prophets illustrate the history of that very extraordinary people, with all its vicissitudes, its passions, and the character of its religion, more completely than if all the odes of Isaiah, the elegies of Jeremiah, and the visions of Ezekiel, had been embodied, amplified, and digested into a regular epic poem. The first maritime expedition of Greece, although the early poetical narratives of the Argonauts have perished, is still found illuminated in all its heroic splendor, in a very extended ode of Pindar,\* just as the historical character of the heroic bards, and the civil wars of England are in the Bard of Gray. Shakspeare, in such of his tragedies as he drew from the obscurity and oblivion of the English Chronicles, portrayed many grand and terrific characters, which, without him, might have disappeared for ever; and gave prominence to those events which growing out of one another at distant intervals, shed light and interest over the annals of the nation.

The essence, then, of heroic poetry consists of the operations of the imagination connected with real history; so applied as that without materially altering, they may serve to illustrate, and

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\* The fourth Pythian Ode.



render it equally wonderful and attractive. Should any of our readers conceive that we are inclined to concede too great latitude of signification to the two words *heroic poetry*, we by no means object that they should restrict its meaning, if they are so pleased, to narrative poems; and to others that may be unwilling to admit any distinctions between heroic and romantic poetry, we shall point them out in the two first narrative poems known perhaps as long as thirty centuries ago.

The inquiry, whether the *Odyssey* be a more delightful composition than the *Iliad*, is, in itself, we think, an idle one. The other, whether the two poems were the work of the same author, though we are of opinion, that the *Odyssey* is the offspring of a genius wholly different and belonging to a later age, we shall decline to enter upon, as foreign to our present purpose. The heroic character of the *Iliad*, and the romantic one of the *Odyssey*, result from no kind of artificial distinctions, but altogether from their opposite effects, and particularly from the indisputable, but slightly noticed, fact, that the existing reality and the ideal accessories in the *Odyssey*, appear almost invariably under a separate aspect. The description of reality produces an illusion of truth, but not of the marvellous; while the conceptions of imagination excite our wonder, without any colour of probability for our belief. In the *Odyssey* the real truth, and the ideal, are not embodied in such a form as to appear and to be consistent and the same: every-day life, and its intercourse, ever dear to the human heart, open to the domestic affections, are delineated and coloured with fidelity; and please no less by their accuracy, than by the instructions they afford respecting very ancient times and people. But the enchantments of Circe, the oxen of the sun, the Læstrigons and Cyclops, appealing merely to our propensity to the marvellous, and being in no way, or little, connected with real nature, cannot boast the magic of appearing at once wonderful and credible.

On the contrary, the poetry of the *Iliad*, being essentially heroic, its grandeur and ideal sublimity are so blended and interwoven with existing nature, as rarely, if ever, to appear to us capable of being separated. Whoever should be at the pains of analyzing the portion that it contains of actual truth or mere fiction, would become aware, that so far from being possible to distinguish, the result of such an attempt would be at once to annihilate them.

This effect is to be traced no less to the genius and art of the author, than to the historical ground-work of his subject, and to the grand scope naturally embraced by the epic. The

division into *fabulous*, *heroic*, and *historical*, periods of the human race, is extremely ancient, and in accordance with the annals of every people. Mankind, whilst equally removed from the ferocious ignorance of utter barbarism, and from the enlightened regularity of extreme cultivation, are impelled, by love of adventure, and of glory; they are then more fanatical than superstitious in their religion; and impatient of delay, and eager to satiate their curiosity and their passions, ambition and lust of power are the animating principle that inspires them.

Historians, however, seldom flourish during such epochs; and even the very few that may write, invariably blend truth with the marvellous, not intentionally indeed, but because, in times like theirs, the most active faculty of man is his imagination. Celebrated events are oftener narrated in songs, not unlike the romances of the middle age. The customs peculiar to the age of chivalry, and to the Homeric times, if we allow for national characteristics and diversity of religions, are much less opposed to each other than at first sight they would appear. Achilles retiring from action, a voluntary prisoner in his tent, and Richard the lion-heart immured in an Austrian dungeon, both alike sought to soothe their indignant spirit with the charms of poetry. How many similar relics may have survived to the age of Homer, who can tell? It is, however, no less manifest, that he grounded the *Iliad* upon traditions which he records; upon heroes whose fame had come down to posterity, and upon the event of a war, still on record in his own days; from all these materials, he formed an edifice at once of history and of poetry.

Tasso, while the memorials of the crusades, left by ocular witnesses, were yet little read, and nearly forgotten, no historian having freed them from the mass of fictions which they contained, was the better enabled to avail himself of their miracles and magic, from the religious faith reposed in them by his own contemporaries. The barbarous pages of the *Gesta Dei, per Francos; et Secreta Fidelium* inspired by his genius, assumed the reality of history, and the poetry of religion. After the lapse of centuries, the Italians began to find heroes in these knight-crusaders; while the construction of the poem, the dignified gravity of the style, the sacred sentiment that pervades it, and finally the author's care in preserving the traditional characteristics of the different nations, and of particular individuals, the customs of the Christians and the Turks, the virtues and vices peculiar to the chivalric age, and to those heroes, the tactics of those armies, with the local description of the fields of battle, and the city of Jerusalem,

altogether perhaps, produced a more lively impression than if he had even written a regular history of the crusades. And here he appears, agreeably to the nature of his subject, to have followed the *Iliad*, which singly sheds harmony and splendor over the silence and the gloom of three centuries; amidst all the ornaments of a poetical imagination, we detect the character of extraordinary nations, and the memory of great political vicissitudes, which, without that poem, would have been consigned for ever to oblivion.

But who, on the other hand, would be absurd enough to seek information respecting the origin of the Læstrigons, and those other monsters of the *Odyssey*; or where encamped, and what may have befallen so many myriads of armies and most potent monarchs with their kingdoms, commemorated by the romantic poets of Italy, whose only geographical map was composed and remodelled according to the demands of their imagination. Doubtless they boasted historical authority in the work of archbishop Turpin, which had been acknowledged two centuries before by his Holiness as genuine and authentic, and hence interpolated more and more by the priests in the pulpits, and by their gossips at the fairs and piazzas, as a testimony to the miracles, sacred and profane of witches and apparitions, and heroes who never slaughtered less than entire armies at a stroke. But when men of genius mingled in the same pursuit, they always venerated the archbishop's authority, and referred to it exactly where the fictions which they narrated ran some risk, from their singularity, of exciting suspicions even among the most weak and credulous; yet withal, they found it necessary to add new apocrypha to the volume of Turpin; and, because neither he nor any of the novelists, to the time of Boiardo, had ever declared that Orlando was in love, this poet very gravely commences:—

‘ This history, as yet, is known to few ;  
Turpin himself the tale would ne’er unfold,  
Deeming that fame injurious might ensue  
From those his writings to that spirit bold ;  
Since he who all things could with ease subdue,  
Was yet by mighty love himself controll’d,  
The deeds love caused could never be conceal’d,  
And thus this tale was to the world reveal’d.’

The small number of actually existing cities mentioned by the authors of the *Odyssey* and the Italian romantic poems, served to create a belief in the existence of imaginary countries. When Ariosto was advised to select another history, and to abandon the trite and beaten path so long pursued by the



celebrators of Charlemagne's paladins, he merely replied, "No, indeed! my predecessors have already brought the world to imagine that these heroes really existed. Their names are now familiar to every body; so that I may allow myself the greater liberty of feigning what I please concerning them, and at once confer upon my readers all the pleasure of novelty and illusion."\* Possibly for the same reason the *Odyssey* preserved the characters mentioned in the *Iliad*. A few facts received as true, and a few names already known, are sufficient to create a persuasion that a fable is not wholly composed of dreams. The poet of romance, therefore, more easily carries away the imagination; while, at the same time, either by example of characters or by aid of allegories, he is enabled to furnish instruction for real life, speaking to the heart by an exhibition of the passions, and depicting human nature under every variety of aspect. Still he can boast no aim or tendency at once direct, certain, and great; while his subject, being derived from visionary events, closes at length in the eye of a considerate reader, by evaporating into nothing; so that, however much he may have enjoyed it,

"He shakes himself  
As one by main force roused, and moves around  
With fixed ken, to know what place it is  
Wherein he stands."

That the heroic epochs severally celebrated in the *Iliad* and in the *Jerusalem Delivered* did not very widely differ, would appear from the fact, that the Christians formed a confederacy of various states, as among the most ancient Greeks, and both assumed arms in pursuance of the fulfilment of a sacred vow. Thucydides believes that Agamemnon availed himself of the influence of religion, in order to retain all the powerful nobles at a distance in Asia, that he might be enabled to assume, not only the authority of a captain, but that of an absolute monarch.† In fact, according to the custom of those times, he enjoyed at once the privileges of prince and supreme pontiff of the confederate people. Nor was the authority of the popes who sounded the alarm to the crusader, very dissimilar. From the precincts of the Vatican, they directed all the Captains of the age, and not even limiting their views to universal monarchy in Europe, they exercised it by arming whole kingdoms, and by compelling them to submit to their plans for conquest in Asia. In the *Iliad*, the poet seems as if he recorded only celestial inspirations and history,

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\* Pigna, *Life of Ariosto*.

† Thucydides, I.

dictated from on high, while he ascribes the woes of Greece to the civil dissensions inflicted by the wrath of Jove :—

“ Since great Achilles and Atrides strove,  
Such was the sovereign doom, and such the will of Jove.”\*

In the *Iliad* the poet invokes his Muse to *sing* to all the fate of the Trojan war ; while in the *Odyssey* he only intreats her to relate *to him* the adventures of Ulysses. Tasso, in one of his stanzas, beautifully rendered by Mr. Wiffen, might be said to have bowed down the heavens to his invocation, from the top of Mount Sinai :

‘ Oh thou, the Muse, that not with fading palms  
Circlest thy brows on Pindus, but among  
The happy angels warbling heavenly psalms,  
Hast for thy coronal a golden throng  
Of ever-during stars ; make thou my song  
Lucid as light, breathe thou the flame divine  
Into my bosom, and forgive the wrong,  
If with grave truth light fiction I combine,

And sometimes grace my page with other flowers than thine.’

But the Muse of Ariosto was his own beloved mistress, and he promised that if she would only not drive him mad, like Orlando, he would consent to sing the loves of his hero, and a thousand more beside :—

Of LOVES and LADIES, KNIGHTS and ARMS, I sing,  
Of COURTESIES, and many a DARING FEAT.  
In the same strain of ROLAND will I tell  
Things unattempted yet in prose or rhyme,  
On whom strange madness and rank fury fell,  
A man esteemed so wise in former time ;  
If SHE, who to like cruel path has well  
Nigh brought my feeble wit, which fain would climb,  
And hourly wastes my sense, restore me skill  
And strength my daring promise to fulfil.”—*Rose*.

Whether the political tendency of the *Iliad* was carefully studied by the poet, or arose naturally out of his subject, is a point not easily to be determined. It is certain that we find it strikingly manifested, and it invariably seems to aim at dissuading the Greeks from civil strife and discord, which at length reduced them to such a state of barbarism, as to involve their history in oblivion upwards of three centuries, so as to defy the efforts of the most sagacious Athenian writers to explore its annals.† The political character of the expedition

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\* The passages of the *Iliad* in this article are generally quoted from Pope's translation

† Thucydides, I.

more explicitly appears in the *Jerusalem Delivered*; in a cause at once national and European, and interesting both to religion and to policy. For more than two centuries the Crusades had already ceased, although the holy pontiffs, from motives of interest, and writers, from enthusiasm, were not wanting to recommend them. In the age preceding that of Tasso, Pius II, not content with proposing and preparing for the undertaking, with a zeal unknown to his predecessors, was ambitious of conducting it in person. He had already proceeded to Ancona with a fleet of the confederate princes, when only within a few days previous to setting sail, he fell sick and died. But in Tasso's time it no longer remained a question merely of the delivery of the Holy Sepulchre; but of a great part of Europe itself, then invaded by the Turks, who inundated the kingdom of Solomon, pierced into the hereditary dominions of Austria, and laid siege to Vienna, which, a century after the decease of Tasso, was in imminent danger of falling into their hands. A religious war, therefore, had become so much the more necessary; and it was important that jealousy, and those incessant divisions among Christian states should cease, in order to combine together against the common enemy. Here, however, the holy pontiffs were at once the preachers of the Crusades, and the promoters of those internal dissensions among their numerous flocks, both of people and of kings; insomuch that they sometimes threatened to bring down the whole Ottoman force upon Christendom as a scourge, and to uphold the temporal dignity of the Apostolic chair.\* Such specimens of diplomacy were a perfect mystery to the people, and carefully concealed by those who were acquainted with them; though equally despised by those great minds in which religion, love of country, genius, and that fine illusion of reforming and directing mankind to nobler passions and pursuits, are powerful as if they constituted the four elements of their nature, and were necessary to support life. Such, to us at least, appears to have been the genius of Homer; and such assuredly were the spirits of Dante, Tasso, and Milton.

But, though their efforts proved unsuccessful, their scope was noble; their subjects were as elevated as they were popular, founded on histories in part true, and in part sanctified by the religion, by the authority, of ages; by the opinions and passions of the poets their contemporaries. The *Paradise Lost*, as has been observed, is a subject that interests the whole human race; but it does not sufficiently appeal to the heart of

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\* See, among other writers, Daru, *Hist. de Venice*, Vol. iii. p. 142.



man, and unfortunately, theological speculations and controversies in Milton's times induced him to give dialogues between the Creator and the Redeemer. Thus, instead of elevating to the very highest heaven of heavens our ideas of an omnipotent Deity, embracing all religions, he depresses them, by bringing them down to the schools of theology. The Homeric Jove, if he never attempts to theologize, did what was still worse, inasmuch as he very frequently is introduced as scolding the other gods. He, however, was not omnipotent; the true deity to which he addressed his vow—a vow he was unable to violate—was Fate—invariable, inexorable, and eternal Fate, equal alike for gods and men.

But, to return to the poetry of humanity : the object of Virgil was, to flatter the Romans with a persuasion, or to furnish them with authority for appearing persuaded, of their descent from Æneas, the offspring of Venus, arrived in Italy from Troy. According to the law of Fate, he was said to have been predicted by the most ancient oracles as the great ancestor of the first founders of Rome, and of the reigning family of the Cæsars. The poet gathered his materials from popular traditions of some immemorial age, and from apocryphal annals, founding the whole upon an ancient prophecy of Neptune in the *Iliad*, in which Æneas's predestined government over those Trojan states which were to survive the destruction of Priam's family is clearly announced :—

“ On great Æneas shall devolve the reign,  
And sons succeeding sons the lasting line sustain.”

*Pope's Iliad, Book XX.*

But whether it sprang from philological lust or adulation bestowed by the Greeks on their conquerors, Virgil in that passage found two various readings : one, that Æneas and his race *shall reign over the Trojans*, on the shores of Asia ; and the other, substituting *πανεσσι* for *τρωεσσιν*, that they *should have the dominion over all countries in the habitable world*. Now Virgil availed himself of the second of these readings :—

“ Through the wide world th' Ænean house shall reign,  
And children's children shall the house sustain.”

*Dryden's Æneid, III.*

The work upon Roman Antiquities, written a very few years before the *Æneid*, by Dionysius Halicarnassus, served to confirm the celestial origin of the reigning family not a little, by means of historical adulation. Rome, at that period more than ever exhausted by almost a century of civil wars between dictators, triumvirs, and generals contending for absolute power, seemed

to enjoy some respite under the long and pacific reign of Augustus. To the CELESTIAL GENIUS of the great Julius, the poets had begun to sing hymns; the priests celebrated their ceremonies, the senate decreed temples, and he had become a tutelary deity in the eyes of the people. A few of the patricians, as a sort of compensation for the loss of the Republic, were pleased at the idea of finding themselves in Virgil's poem descended from the most ancient Italian heroes, whose names they had never before so much as heard.

Thus the poet brought the oracles, the apocryphal traditions, and the causes of the vicissitudes of Rome, from its foundation down to his own times, together with the actual condition of the people; and thus laid an historical ground-work, upon which he grafted a heroic poem, directed to a political purpose, perhaps justified by his own principles, and certainly connected with his own fortunes. At all events, it interested the whole Roman empire, and more, inasmuch as Literature and the Fine Arts combined to shed splendor and effeminacy on that period; while patricians, consuls, and generals of armies, who upwards of a century before had treated the very noblest of their poets like slaves and charlatans, not only began to vie with each other for poetic fame, but, inspired by the example of Cæsar and Augustus, composed verses and held grammatical disputations.

But despotism still increasing, until it assumed the form of a gigantic fury under the reign of Nero, prepared Rome for the subject of Lucan; a subject, however, not well executed, owing to the author's premature decease, being condemned to death before he had completed his thirtieth year, on the plea of conspiracy. The battle of Pharsalia had decided the destinies of mankind; and hence the event, though it could boast no ancient date, excited from the first the astonishment of the world, such as to impress it upon the recollections even of the writers who recorded it, with surprise and amazement. Rome still aspired to freedom, and Lucan found the minds of men prepared for him by the tyranny of the age. Hence, without having to explore the obscure annals of past times for the names of his heroes, he beheld them in Pompey, Brutus, Cato, and many other undaunted assertors of the republic, who had nevertheless been compelled to prostrate themselves under the sway of a single man. But similar poems, with the histories and biographies of the last defenders of liberty, were at that time condemned to be burnt by the executioner; and Tacitus adds, that whoever ventured to exhibit images of Brutus and of Cassius, or even pronounced their names without execration, were indicted, judged, and convicted, as guilty of high treason, within a few hours, and condemned to death. Hence we may perceive that

terror, along with that worst species of servitude, which is rivetted by universal corruption, and only aggravated by the impatient impulses of generous spirits, had withdrawn both the intellect and the eye from any heroic poem opposed to the political tendency of the *Æneid*. It was such state reason, even more than the tame though tasteful style of Silius Italicus, that during his life time, consigned to oblivion his poem on the Roman expeditions under the republican consuls in Africa. The *Æneid* was expounded by the Emperors themselves to the senate and the army, to impress them with religious ideas respecting the celestial origin of their dynasty. *Nero—utque studiis honestis et eloquentiæ gloria nitesceret, causa Iliensium suscepta, Romanos Troia demissos, et Juliæ stirpis auctorem Æneam, aliaque haud procul fabulis vetera facunde exsecutus, impetrat, ut Ilienses omni publico munere solverentur.* Tacitus Ann. l. xii. sect. 57.

Under the reign of Vespasian and his two sons, Valerius Flaccus sought out his heroes among the Argonauts, anterior to the *Iliad*, and composed a romantic poem, now neglected even in the Universities, but which nevertheless boasts some occasional passages of unequalled splendor and beauty. Statius, in order to court the favour of Domitian, who believed himself unjustly debarred from the crown, loudly declaring that it had been usurped by his brother Titus, flattered him by celebrating the war of Eteocles and Polynices for possession of the throne of Thebes. He was supplied with his heroes neither from annals nor traditions, but from the tragic poets of Greece and Rome, who had, indeed, almost exhausted the subject. Statius certainly made it popular among his contemporaries, familiarized as they were to juridical slaughters and to gladiatorial spectacles, at which even ladies applauded with savage joy the victim who died with most art, pouring his last sighs with superior grace; and who while his life-drops ebbed, sank down in an attitude best adapted to display a noble corpse. Statius accordingly converted his heroes into a race of cannibals, adding ferocity to their passions, until they reached a pitch of phrensy; and he thus left one of the most revolting romantic poems upon record.

Romantic poetry, springing wholly from the imagination, without any regard to facts, and with no view beyond that of carrying away the imagination of its readers along with it, requires in translation, no particular exactness or judgment that might weaken its illusions, but ardour and luxuriance of fancy, such as to enable it to produce further striking effects of the same cast as in the original. It is enough to preserve the disposition of the parts, and the unity of the poem, while in the details the translator is



at liberty to sport his genius and fancy to the best of his power. With heroic poetry, on the other hand, the imagination serving only to produce, to illustrate, and to enliven with ideal charms a series of facts not absolutely obliterated, and to invest characters which have really existed with more splendor and magnificence, already consecrated by the power of time; the author aims at restoring to view those epochs, exhibiting them in action, and conferring life and interest upon events only known through tradition, and hence to excite in his own age an admiration of similar exploits, as well as to extract from them political opinions of universal application and importance. On this account it calls for a translation conducted with most religious fidelity and care, yet executed by a writer of vigorous imagination, and of very refined taste and attainments, resulting from a long course of study, calculated to form at once a poet and an interpreter. By this we mean that he ought to make liberal use of his powers of invention to confer life and splendor on his narrative, availing himself of the same species of elements employed by the original author as indispensable to the nature and tendency of the work, but which, at the same time, he should take care not to engraft with others of an heterogeneous character. Every, the least inadvertence—and Mr. Wiffen will be found to furnish several instances—transforms individual and national character; customs peculiar to different people, opinions, and sentiments of religion; until the images, colouring, and style of the original, from being those of an heroic poem, assume a romantic dress.

Thus Mr. Wiffen makes Alete, one of the ambassadors from the caliph of Egypt, address Godfrey as follows:—

‘ This will, perhaps, inspire  
Thy soul to turn from quiet’s gentle star,  
With as much zeal as we would shun the torch of war.’

*Canto II. st. 67.*

Now, if the Mahometans had ever felt the influence of “quiet’s gentle star,” or formed the remotest idea of what it was, we shall not here stop to inquire. It is not to be found, however, in the original; and it is no less certain that if Tasso had made Alete pronounce the monosyllable *we*, he would have shewn him to be a very stupid sort of envoy indeed; thus confessing that his king and the nation were cowardly, fearful of the chances of a war. In the original he expresses himself with more prudence and dignity: “They will persuade thee to shun peace more than *others*, in general, would do war.”\* In the same stanza,

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\* *Faran per avventura a te la pace,  
Fuggir, più che la guerra altri non face.*

the ambassador, enumerating the motives that impelled Godfrey to seek fresh conquests, observes,

‘ Yet the advice of some whose private aims  
Were served, should'st thou new provinces acquire.’

But in the Italian it is, “ the advice of some one whom it grieves, that others should preserve their own conquests ;” \* and it is a very subtle insinuation, meant to strengthen the suspicion in Godfrey's mind that he was surrounded by generals and advisers, who, out of jealousy, wished to involve him in so prolonged wars, to end by depriving him of the glory of his former conquests. Tasso, indeed, opens the action by alluding to a spirit of discord, and impatience of control, insomuch that it was difficult for Godfrey to induce his companions in arms to attempt the liberation of the holy sepulchre :—

‘ And under his mild guardianship anew,  
To the grand Red Cross Flag his errant comrades drew.’

*Anew*, is not correct, because the command was not conferred on Godfrey before that time [Can. 1.], and it lessens our ideas of the difficulty of re-uniting the crusaders who had spread themselves abroad in search of adventures in aid of the sacred cause. The poet emphatically uses the word *al fin*, at last, which probably the author failed to observe.

The two alterations in the stanza cited from the second canto, though at first sight extremely literal, lower our idea of the deep subtlety and secret perfidy attributed to the Egyptian only a few lines before ; where the translator, in the form of paraphrase, succeeds in preserving the colouring of the original :—

‘ A supple, crafty, various-witted man,  
Prompt at deceit, perfidious in his phrase,  
He with a Satan's malice could trepan,  
And wove his webs with such ingenious ways,  
That each calumnious *charge* had all the air of praise.’

Argante, the other ambassador, is described by the poet ; (and, to give a precise idea, we prefer rendering it into literal prose) as “ inexorable, impatient, ferocious, † never overpowered by fatigue, or subdued in arms ; a contemner of every religion,

\* Il consiglio di tal cui forse pesa  
Ch' altri gli acquisti a lungo andar conserve.

† Impaziente, inesorabil, fero,  
Nell' arme infaticabile ed invito  
D'ogni dio sprezzatore, e che ripone  
Nella spada sua legge e sua ragione.—*Can. 2. st. 59.*

and one who refers every reason and every law to his sword." Here the colouring, sufficiently strong in itself, is a little too loaded by the translator:—

‘ Impatient, fierce, implacable, and proud,  
In arms unmatched, like Lucifer he trod,  
Scoffing at Heaven, and with his vaunts aloud  
Defying earth ; his argument his nod,  
He made his will his law, and his good sword his God.’

*Can. II. st. 69.*

The exaggeration, little as it is, belongs to the romance writer, who plays with antithesis at the expense of the gravity of the narrative. Thus, too, when Argante, according to the Mahometan rite, folds the hem of his mantle, presenting it to Godfrey for the purpose of making his selection of war or peace, observing, “Oh, thou despiser of the most dangerous exploits, I bear thee in the folds of my mantle, either war or peace at thy good pleasure ; rouse thee to decision without more delay, and take which of the two thou wilt.\*” But the translation turns Argante’s dignified intimation into a desperate challenge :—

‘ Do thou, contemner of strong Fate ! behold  
Within this volume lie both war and peace ;  
Choose, but choose quickly ; be thy purpose told,  
War, peace or war ? Aread me one of these ;  
What more thou wouldst demand, thy own right hand must seize.’

Here the last verse is a very happy addition, as well as the alteration of the expression *men dubbie imprese* into that of “strong Fate,” which is more analogous to a Mussulman’s mind. Fairfax, adding ideal touches to Argante’s discourse, makes him exclaim,

“Thou proud despiser of inconstant Mars ;”

and by following exactly the epithet of *dubbie*, introduces into the Alcoran a deity that was never acknowledged there. But when, in the original, the other Mahometan addresses Godfrey on the subject of Fate,

“ A seguitar la strada  
Che t’ è dal *Fato* largamente aperta,”

why should Mr. Wiffen have made him omit the leading principle of his faith, by changing *Fate* into *Fortune* ?

\* O sprezzator delle più dubbie imprese,  
E guerra e pace in questo sen t’ apporto ;  
Tua sia l’ elezione e ti consiglia  
Senz’ altro indugio, e qual più vuoi ti piglia.



‘ To pursue the path  
Which *Fortune* opes to thy dilating eye.’—*St.* 69.

This subtle Alete is denominated by our translator, an Egyptian peer [*St.* 80], which may perhaps be admissible in the poetical language of England, but not agreeable to the correct idea formed by Tasso, respecting the political institutions of the caliphs. Neither do we see how the expression made use of by Alete, could be justified :—

‘ Boldly confront those vast Leviathans of thine.’—*St.* 76.

that is, meaning “the christian ships opposed to the immense fleet of the Persian, Turkish, and Egyptian allies.” Such is exactly Tasso’s own expression, nor would he have ever put into the mouth of an infidel metaphors derived from words wholly scriptural.

Argante, moreover, though born a “Circassian,” becomes, against all intention of the author, an Emir,\* which signifies a descendant from the lineage of Mahomet, of which there still exist several branches in Arabia. In the same stanza the armour of an angel “incorruptible, unalloyed, by an eternal Maker,”† is thus qualified :—

‘ The unalloyed, imperishable arms,  
Tempered by Heaven’s own alchymist.’

To some, perhaps, this expression may appear perfectly pious, and to others, of as profane a cast : to us, we must own it partakes most of the ludicrous ; inasmuch as it is quite impossible to form any idea of an alchymist, who does not busy himself with mixing metals. Again, Godfrey, beginning to reply in Italian, calls him *messenger*, and in English *sir knight* ; but at that expedition there was no knight who had not been baptized. The Persians, who in the present times boast their peculiar chivalric distinction of the sun, probably did not then possess it. And assuredly neither Tasso nor the chroniclers of the crusades make the least mention of any such order. Only the earliest among the Italian novelists were pleased, on their own authority, to create the sultan Saladin, a cavalier, because they heard in the chronicles of his great reputation, of his courtesy, and his magnificence as a prince.‡ At all events, the title was never conferred, except upon christians,

\* Canto 7, st. 94.

† Ad armi incorruttibili ed immiste  
D’eterno fabbro.—*Can.* 7, st. 94.

‡ *Salachadinus Soldanus, vir magnanimus, strenuus, largus.* Sozomen Pistoriensis, Ad. An. 1194.

accompanied with ceremonies, which, at this period of society, to say truth, may well appear in the light of mere mummeries, having lost that character of religious solemnity which once belonged to them. Mr. Wiffen, with the utmost propriety, has engrafted on his original, in the exordium of the poem, the words "Red Cross Flag;" being aware that, without the sign of the cross upon the breast, neither cavaliers nor soldiers ventured upon such expeditions. For this very reason their pious leader would never have fallen into the inconsistency of bestowing the title of *sir knight* upon an infidel; though it perhaps cannot be denied, that it boasts a sufficiently becoming sound for a romantic poem, in which names and customs may be attributed promiscuously to any nation, and serve to create a kind of illusion that we are at home.

Should our translator feel disposed to place us, to make use of his own words, amongst "any rabbi who affect such a holy veneration for the text of Tasso, as to censure, as impertinent, the merely Masoretic points which the translator was obliged to introduce, whilst they wilfully overlook or applaud the weighty comments of his elder 'Talmudist'" — and thus "strain at a gnat, and swallow a camel"\* — a Greek proverb which he cites in the original — we must then confess ourselves incapable of entering our justification. Indeed, as far as relates to any rabbi, we can make little boast of our knowledge; of Talmudists we know still less; but as to Masoretic points, we are utterly at a loss. Only in respect to the Greek saying, we venture to add to it, in the way of explanation, the Latin homely line:

Si volet hac lege, in trutina ponetur eadem.

Let him therefore weigh, on the same scales, the gnats and camels of Pope, Cowper, Fairfax, with his own, and pass judgment upon all.

Pope, assisted now and then by Madame Dacier's interpretation, and still more by that intuition with which nature had endued him, perceived that, when Agamemnon, in the fourth book of the *Iliad*, reminds his generals that they were always the first to be invited to his feasts, and helped to large sirloins of beef and overflowing cups, as much as they pleased, did not mean to reproach them with gluttony or inebriety, and much less was it any vain boasting of his own sumptuous hospitality. These were honours in which other heroes were not allowed to participate, and amounted to neither more nor

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\* Preface, p. ix.

less than that flattering appellation of *my cousin*, bestowed upon their marshals by the kings of France. Madame Dacier, however, scarcely hinted at the overflowing cups and the fine roasted sirloins of beef; and though she professed to interpret rather than to translate, still she most cruelly gallicised the entire passage: "Aujourd'hui vous souffrirez sans rougir que tous les officiers de l'armée vous devancent au combat, et qu'ils vous ravissent une gloire dont vous deviez être plus jaloux que des honneurs d'un festin." Pope, too, apprehensive of shocking the refined taste of his country—though here as well, the beautiful snowy arms of young wives are to be seen overstraining their delicate muscles in carving for their guests, somewhat too manfully—translated,

"For this your names are called before the rest,  
To share the pleasure of the genial feast;  
And can you, chiefs, without a blush, survey  
Whole troops before you, labouring in the fray?  
Say, is it thus those honours you requite,  
The first in banquet, but the last in fight?"

*Book 4.*

Cowper, while he sought to preserve a religious fidelity towards his prototype, succeeded only, like all others of the same stamp, in every age and language, by becoming at once the most inaccurate and most tedious of translators. Observing, that here the word *honour* is not expressed in the original, and not venturing on the liberty of interpolating it, although in other discourses precisely similar, it is to be met with repeatedly;\* he interprets the words, so as to deprive them of their dignity and meaning:—

"Foremost to defy  
The burning battle's rage should ye be found,  
Whom foremost I invite of all to share  
The banquet, when the princes feast with me:  
There ye are prompt; ye find it pleasure there  
To eat your savory food, and quaff your wine,  
Delicious, till satiety ensue."

Pages, however, would hardly suffice to show the number of Greek words that have here been misapplied. He who understands the original, may easily detect them, provided, indeed, he is aware how much in lapse of time words are apt to gather, drop again, and interchange a number of accessory ideas; so that, however they preserve in the main their primary signification, they present, in different ages, a variety of con-

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\* Amongst others, book viii, line 161 *et seq.*; book x., line 212—217.



comitant meanings, wholly at variance with each other, and for which we might consult our dictionaries in vain. Montaigne calls the king's daughter and his own by a feminine appellative, exactly corresponding, like *lad* and *lass*, to *garçon*, and which nevertheless was subsequently degraded—who can say wherefore?—and since restricted by custom to the unhappy victims of seduction. What, then, must be the alterations of the Homeric significations, in the opinion of those who consider that the earliest Greek lexicon appeared at Constantinople, more than two thousand years after the composition of the *Iliad*? This observation, even spite of the lesser interval of time that elapsed between poetry and grammar, is applicable to the Latin and Italian languages, and to all tongues more particularly in the period of their primitive writers.

Now, from Pope's lines that preserved the meaning of Agamemnon's reproach to the confederate kings, but omitted the particular marks of precedence in a state banquet; and from those of Cowper, which convert them into so many sottish gourmands, our translator may form some idea what effects might thus ensue, and it will not be difficult for him to divine that what to him appears a "camel" in the works of others, cannot so easily in his own be transformed into a "gnat." Should he, also, be inclined to pronounce our observations, however just, applicable only to minutiae, he must allow us to reply, "Thou art the man," since he has already presented us in himself with a critic eager enough to magnify things in the translators who have preceded him, which to us appear mere peccadillos, unworthy of any one's notice, and not certainly to be harshly censured by Mr. Wiffen, who falls into the very same errors which he blames in others.

Fairfax, though not borne out by his text, makes the Egyptian ambassador draw a comparison between the ships of the crusaders and those of the Mahometans:—

"Dare flocks of crows a flight of eagles meet?"—*Can. 2, st. 76.*

Against this Mr. Wiffen enters his protest in terms more severe than unjust.\* It happens, that in the text there is not a shadow of the comparison that he himself, only shortly before, puts into the mouth of the same ambassador,

"Though fresh antagonists surround thy throne,  
And numerous as their locust clouds to sight,  
With Turk and Persian both, the Egyptians now unite."—

*St. 73.*

To embellishments like these, as we have already stated, and for which we shall further give more convincing reasons, we entertain no objection, provided always they be homogeneous with the style, the spirit, and the tendency of their original. Assuredly the Mahometan ambassador of Fairfax, comparing his fleets to eagles, preserves more of the heroic and national character than the very same ambassador of the new translation, who contemplates his armies under the appearance of a cloud of locusts.

While we esteem these trifles at really what they are worth, we cannot, we fear, extend the same remark to those traits which, when altered, may withdraw the attention from the dignity of heroic poetry, whilst in the original they constitute its essential element, inasmuch as they preserve the history of the arts and customs of distant and ancient nations, along with the dawn of their civilization. Of these the *Iliad* abounds with instances; the *Æneid* has rather fewer, and the *Gerusalemme* a good deal more. In alluding to a dove taught by the Turks to convey written messages to the besieged cities, Tasso observes,

“Che tai messi in quel tempo usò il Levante.”

“That at that period the east employed such messengers.” Yet this line was expunged by Lebrun, the best French translator of the poem, and one of the triumvirs in the early part of Buonaparte's consulship. Though not restricting himself to the trammels of verse and rhymes, he struck out many traits of a similar kind throughout the work, presuming, perhaps, they were matter of sufficient notoriety, or that their simplicity did not well accord with the trumpet of his poetical prose.

Indeed, such omissions and additions, inserted more from feelings of prejudice than from judgment, inevitably end at length in transforming even the characters of the heroes, to which every kind of poetry, but more especially the heroic, is indebted for its highest claims; and hence genius summons up all its highest faculties, both natural and acquired, to the task: yet translators sometimes go so far as to alter even the character and biography of the poet.

Mr. Wiffen having contrived to persuade himself, in spite of innumerable historical difficulties, which most probably will never be cleared up, that Tasso's thoughts were occupied day and night with the image of Leonora, Princess d'Este, availed himself of a pathetic passage, on the death of a young warrior and his bride, to confirm his own hypothesis, and makes the poet exclaim,

' And that some eyes, to love and feeling dear,  
May grace in Tasso's verse your story with a tear.'

"Another pathetic appeal," adds Mr. Wiffen in his notes, "to the tenderness of Leonora d'Este [*Canto* 20. *st.* 94, *p.* 576]. Yet Tasso merely says, "May the dirge of some servant of love honour your death and my verse."

"E col suo pianto alcun servo d'amore,  
La morte vostra, e le mie rime onore."

The idea of registering his own name in the poem would in Tasso's eyes, not only have looked like pedantic vanity, but have lowered the dignity of heroic poetry with a precedent, which Virgil, and more particularly Homer, were cautious not to furnish to their successors.

Tasso himself felt the religion which he celebrated—only too deeply. The difficulties which his reason at times opposed to his faith, induced him, indeed, to make voluntary confessions of them to the Holy Office—a circumstance that furnished fresh weapons for his unfeeling persecutors, and added one more in addition to those cruel struggles, which, in his naturally ardent spirit, all co-operated to distract and drive it to a pitch of melancholy phrenzy. Fancy therefore, in his poem, works without ever interfering with his solemn sentiment of religion. The use to which he applied the supernatural in his enchantments, "through the power of demons," was, and still continues, consistent with the opinion of the fathers of the church, with popular belief in Italy, with legislation through Europe, and with the catholic faith of all countries where it prevails. The ornamental imagery, which he borrowed from Greek mythology, were applied with so much delicacy and discrimination, as to challenge all the sophisms of hypocrisy to confute, much less to convict him of confounding subjects sacred and profane:—

' The odorous air, morn's messenger, now spread  
Its wing to herald in cerulean skies,  
Aurora issuing forth with radiant head,  
Adorn'd with roses pluck'd in Paradise.\*

Here we have the Aurora of Homer embellished by Tasso; and the additional tinge of colours bestowed by the hand of Mr. Wiffen detracts nothing from its grace and spirit. The mere word of "Paradiso," peculiar to the Christian religion,

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\* "Già l'alba messaggiera erasi desta  
Ad annunziar che se ne vien l'aurora;  
Ella intanto s'adorna, e l'aurea testa,  
Di rose colte in Paradiso infiora."—*Canto* 3, *st.* 1.



withdraws our imagination from all recollections of paganism. But when Tasso proceeds to describe the voluptuous charms of Armida, and arrays them in seductive images, glowing with attractions and exquisite grace, it does not escape him that she was a coquette, endued with magic powers by the rebellious angels, whose minister she was, appointed to blast the designs of the Christians. Had he, in order to exalt her enchanting beauty, written like Mr. Wiffen,

‘ But from her lovely lips, from whence the air  
Of Paradise exhales, the crimson rose  
Its whole voluptuous bloom in peerless beauty throws,’

the poem would no longer boast sublimity from the pure and holy sentiment infused into it from the mind of the author. But the airs of Paradise are far from being profaned in the original by breathing from the lips of Armida. Tasso, with more chasteness, both of religion and of style, has expressed it,

“ Ma nella bocca ond’ esce aura odorosa,  
Sola rosseggia e semplice la rosa.”—*Canto 4. St. 30.*

So far as to the foreign traits crept through the translation in the individual character of the poet. With respect to his heroes, Godfrey and Tancred among the crusaders, Solyman and Argante in the army of the infidels, are not only the four most lofty of the poem, but are original, and exclusively belonging to history—to the powers of Tasso’s imagination, and to his own heart. It is of little importance if a certain personage be no where mentioned in the chronicles, provided he possess the peculiarities of the nation at the period of which the poet writes; and that he speak, feel, and combat with individual heroism in that particular cause, and no other. From the slight allusion already made to Argantes, it has been seen that Mr. Wiffen has added some touches to his character such as make him resemble the Mandricardos and Gradassos of Boiardo and Ariosto. He introduces him as Lucifer, and where the poet is content to observe that he replied, “with more scornful language, and angry eyes,”\* his translator carries it further:—

————— ‘ His passion burned  
In language scornful, profligate, and bold.’

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\* “ A ragionar riprese,

Vie più che prima dispettoso e torto.”—*Canto 3, st. 89.*

The word *torto* in this place is not put for an epithet, but adverbially, as the grammarians express it, answering precisely the “*torvè*” of the Latins, which always conveys meanings or expressions of “an angry eye.” This is here sunk by the translator, and its effect lost, as he does not apply it like the original, to the countenance of Argante, but only to his words.

But what was the cast of Argante's real character appears, when he vows to avenge Clorinda's death, and when he himself feels a presentiment of his final hour:—

‘Cold in her grave the virgin lies, but yet  
There are some mournful dues which I will ne'er forget.  
Hear, all Jerusalem, my vow ! Heaven hear,  
And if I fail my promise to fulfil,  
Blast me with fire ! deep, deep revenge, I swear,  
On the base Frank that did Clorinda kill !  
Never from battle shall my sword lie still,  
However fully flushed upon the foe,  
Ne'er be dissevered from my side, until  
I stab curst Tancred to the heart, and throw  
His ruffian carcase out, to feed the hound and crow.’

And towards the close of the poem, being engaged with Tancred:—

‘Here then they paused, and full of anxious thought  
Argantes turned th' afflicted town to view ;  
Tancred perceiving that the knight had brought  
With him no shield, his own to distance threw ;  
And said, “What gloom does thus thy soul subdue ?  
Think'st thou the destined hour to terminate  
Thy *guilty life* is come ? if this thou rue  
With pensive mind, prophetic of thy fate,  
Thy fear is useless all, thy foresight comes too late !”  
“I think,” said he, and sighed, “on yon lone town,  
The pomp of realms, about to pass away,  
That queen of Syria, hoary in renown,  
Whose fatal ruin I have failed to stay.”—*Canto 19*.

These passages, however much they depart from the text, would not yield to the more close translation of Fairfax, were it not for a really *guilty* epithet, which stains with an ungenerous trait the magnanimous mind of Tancred, as well as the dignity of his address in the original, where he does not reproach his antagonist with a *guilty life*:—

“And said : ‘Whereon doth thy sad heart devise ?  
Thinks't thou this hour must end thy life untrew ?  
If this thou feare, and dost foresee thy fate,  
Thy feare is vaine, thy foresight comes too late.’  
“‘I think,’ quoth he, ‘on this distressed towne,  
The aged queen of Judaea's ancient land,  
Now lost, now sacked, spoil'd, and trodden down,  
Whose fall, in vain, I strived to wistand.’”—*Fairfax*.\*

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\* Poscia lui dice : Or qual pensier t' ha preso ?  
Pensi che giunta è l' ora tua prescrita ?

Tasso succeeds in penetrating into both the real and ideal nature of his characters, surmounting difficulties unknown to the ancients. Doubtless he was here assisted by the circumstance, that many individuals and their actions, which he celebrated, really belonged to history, which directed him in the invention of others, as well as how to distinguish them by appropriate traits of imagination agreeably to that epoch. However, he wrote at a period when Ariosto had already accustomed Italy to admire only a race of heroes not to be tamed by fighting both day and night, wholly invulnerable and insensible to their wounds, journeying thousands of miles without wearying either themselves or their horses, attacking giants and enchanters, and putting a whole garrison, or the inhabitants of a large city, to the sword single-handed; besides routing entire armies, conquering kingdoms, and giving them away, insomuch that Hercules was a mere pigmy to them. Very few, and much less readers of romance, like to be roused from their astonishment; which rendered it the more difficult for Tasso at that period to dissolve the charm in favour of heroes at once more natural and more worthy our admiration. He sought to gratify the popular taste by exaggerating the character of Rinaldo, whom he meant to represent as the Achilles of the Crusaders. The very essence of the poem, however, was opposed to it, no less than the author's own severe taste, and the historical tradition; and it failed.

To this we may add another difficulty in regard to love, which, in the heroic poetry of the ancients, is only introduced as a sort of chiaroscuro, requisite to heighten the softer passions as well as the severe. Still it is the love of his own temperament—clear, faithful, and ardent, as we see it in the characters of Helen and of Paris; and often also authorized by social and religious laws, and by the domestic affections, as in the instance of Andromache and Hector. Sarpedon, dying with heroic fortitude, appeals at once to the imagination and to the heart, when he says to Hector, “I shall never more behold my wife, nor my little boy.”\* But it was chivalric love that, from the

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Se antivedendo ciò timido stai,  
 E' il tuo timore intempestivo omai.  
 Penso, risponde, alla città del regno  
 Di Giudea antichissima regina,  
 Che vinta or cade! e indarno esser sostegno,  
 Io procurai de la fatal ruina.”

Probably no translation will ever do justice to the four last lines, as they derive sublimity as well as pathos not only from the sense, but also from the sound of the words, and the grave tone of the verses.

\* Book V.



period of the crusades, invariably formed an integral portion of every poem, and the very refined quintessence. Its manner of expression and representation, however, sunk it into mere puerile dreams and conceits. Heroes of chivalry were bound to speak very slightly, if at all, concerning their wives, though violently enamoured of wandering damsels, alluring sorceresses and fairies. Nor does it appear that they felt often any paternal tenderness or pride from the circumstance that they were fathers of a progeny of younger heroes. Such, indeed, was the fashion or rather the hypocritical affectation of feeling, prevalent during whole centuries in social life, even down to the time of Tasso, insomuch that, in the collection of his entire works, we meet with one of those disputations held before a court of Love, which was then existing at Ferrara. Arrayed in this perversity of taste, the passion proved agreeable to his readers; and had he ventured to exhibit it under more natural colours, he would not merely have shocked the prevailing taste, but the propriety and conventional modesty of the day. The loves of Rinaldo and Armida were wholly of a sensual cast; nor does the sentimental tinge, added to the passion of Tancred and Erminia, veil its real nature. Occasionally, however, they express their feelings in artificial language, and a degree of false delicacy. Hence the poet fell into the error—venial, indeed, if professed wits ever knew how to forgive—of employing refined phrases, which besides betraying a kind of false taste, amount, in a few instances, to the crying sin of absolute conceits. Yet how rich a mine of intrinsic worth was concealed under this exterior affectation is clearly manifested by Mr. Wiffen's translation, which, in this portion of the work, may lay claim to the indisputable praise of having almost always preserved the thoughts and sentiments of the lovers, freed from the affectation and heartless antithesis of his original. They are, however, of rare occurrence, and to be considered merely as deviations inconsistent with the system of Tasso's style. Upon this point Dr. Hurd has already exposed the wretched submission of Addison in matters of taste to the doctrines of the French, for intimating, "as a sort of watchword to critics on this side the water," that Boileau warned all poets to beware of *le clinquant du Tasse*.\* However there is a current tradition, that Boileau did not understand a syllable of the Italian language.†

A still more serious difficulty to be encountered by Tasso in representing his personages in a heroic characteristic, consistent

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\* Remarks on the Fairy Queen.

† Giuguené, *Hist. de la Litterat. Ital.* vol. v. p. 336.

with the notions of his contemporaries was, that then, as now, and more particularly in the French tragedy, heroes are bound to die *cavalièrement*, and to give full play to every human impulse, except the two most fatal and implacable—the overruling love of life, and the fear of death. The only means of investing with fresh sympathy the admiration due to heroes lay in the ancients, more especially in Homer. Indeed how should we be moved to pity a man who dies because he does not consider it of the slightest importance for him to live? Or how to admire the valour that blindly precipitates itself upon fate, without indulging the most distant idea or presentiment of danger? In the *Iliad* death always presents itself as an object of terror to the eyes of Achilles. When reposing in his tent, he indulges melancholy thoughts, produced by his inaction and suspended revenge. While burning, too, for glory, he still revolves in his mind the presages of his mother when he departed for Troy :

“ My fates, long since, by Thetis were disclos’d,  
And each alternate, Life or Fame, propos’d.  
If I shall stay before the Trojan town,  
Short is my date, but deathless my renown :  
If I return, I quit immortal praise,  
For years on years, and long-extended days :  
If Heav’n restore me to my realms with life,  
The reverend Peleus shall elect my wife.  
Blest in kind love, my years shall glide away,  
Content with just hereditary sway ;  
There deaf for ever to the martial strife,  
Enjoy the dear prerogative of life.”—*Book 9*.

In the heat of the battle, amidst the heaps of slaughter with which his own sword had surrounded him, he answers a young warrior, who implored him to spare his life :—

“ Die, then, my friend ! what boots it to deplore ?  
The great, the good Patroclus is no more !  
He, far thy better, was foredoom’d to die,  
And thou, dost thou, bewail mortality ?  
See’st thou not me, whom Nature’s gifts adorn,  
Sprung from a Hero, from a Goddess born ?  
The day shall come, which nothing can avert,  
When by the spear, the arrow, or the dart,  
By night or day, by force or by design,  
Impending death and certain fate are mine.”—*Book 21*.

When rushing in his chariot to encounter Hector, one of his steeds, impelled by the furies, forewarns him of his victory and his death :—

So let it be.

Portents and prodigies are lost on me.  
I know my fate: to die, to see no more  
My much-loved parents, and my native shore—  
Enough—when Heaven ordains, I sink in night;  
Now perish Troy!"—*Book 19*.

Tasso, although bound to comply with the extravagant notions, still prevailing in his own times, respecting the fearless bravery ascribed to chivalry, nevertheless succeeded in awakening the deepest emotions of human sympathy for Solyman; removing, at the same time, any idea of cowardice in his yielding without a struggle at the approach of an irresistible warrior:

'E'en Solyman, who saw the wond'rous sight,  
Chang'd in his cheer, and inly trembled too,  
And pale his ruby cheek, and nerveless grew  
His arm, whilst prescient of his coming doom:  
He knows not what to think or what to do,  
A thing in him unusual—But for whom  
Do the stern Fates reverse the issues of their loom?  
' Whilst unresolv'd he stands, the knight arrives,  
It seems to him with an immortal's pace,  
And with a wrath—a grandeur—that deprives  
All mortal wrath and grandeur of their grace.  
Small while he fights: yet, dying, no disgrace  
Stains his long glory: to the last his eye  
Glow with the memory of his state and race.  
He shunn'd no stroke, he heav'd no groan nor sigh,  
Nor did a single thing but what was great and high.\*

Here Mr. Wiffen appears to us to have improved on his text; but here again, "the eternal dispensation," *eterna legge* of the Italian, dwindles into the mythology of the Fates and their loom,

\* "E Soliman ch' estranio colpo ha visto  
Nel cor si turba e impallidisce in faccia;  
E chiaramente il suo morir previsto  
Non si risolve e non sa quel che faccia;  
Cosa insolita in lui.—Ma, e che non regge  
Degli affari quaggiù l'eterna legge?

"Giunge all' irresoluto il vincitore;  
E in arrivando, o che gli pare, avanza  
E di velocitate e di furore  
E di grandezza ogni mortal sembianza.  
Poco ripugna quel; pur, mentre more  
Già non obbla la generosa usanza:  
Non fugge i colpi o gemito non spande;  
Nè atto fa se non altero e grande."

*Cant. 20, st. 104 107.*



avoided in the original as a profanation of the subject, and unbecoming the character of Tasso as a poet of the holy war. However over nice the distinctions may appear between heroic and romantic poems, they do not belong to any theory, as the merit of having put them in practice was allowed by the ancients to the earliest of their poets :—

——— “ Fuit hæc sapientia quondam,  
Publica privatis secernere, sacra profanis—  
Sic honor et nomen divinis vatibus atque  
Carminibus venit.” ———

*Hor. ad Pis. 396, et seq.*

Thus much, perhaps, will suffice—without exacting from our new translator further proofs of his alteration of characters—to warn him of the difficulties to be met, and the precautions to be taken, in a poem which must have presented obstacles to its author, of a nature to deter any other man from encountering them. With the consequences of this sort of mistakes, we may, perhaps, satisfy Mr. Wiffen, by holding up the example of a noble translator, for such Pope deserves to be entitled, notwithstanding that, amongst his minor faults, he seems to have been impelled by fatality, and quite unconsciously, to obliterate the individual features of Homer's heroic characters.

There is no instance in the *Iliad* of either Greek or Trojan reproaching Helen for causing the war; nor is the idea of adultery, however clearly manifested and implied, ever made the subject of remark. She only bitterly reproaches herself, and never appears on the scene, except to manifest her deep affliction—her pangs of mingled shame and remorse. Such a state of mind leads her to interpret even the most indifferent words addressed to her by members of the house of Priam, as a direct reproach. But all, and Priam above the rest, were eager to express their admiration of her extraordinary, her almost celestial beauty: they pitied in her a daughter of Jove, and yet doomed to all the errors and miseries of mortality; and they attributed her flight from Sparta to the irresistible decrees of Fate. From Hector, so far from ever hearing the slightest allusions of the kind, she looked up to him singly for protection, when all, at length, wished to revenge upon her the cause of their common calamities. Moreover, among the sublime features that shed lustre over Hector's character, indulgence and devotion to all the domestic charities are always conspicuous. He went, indeed, to the house of Paris, and reproached him with not combating in the ranks of his fellow-citizens, who died only on his account. Paris being compelled to arms even at Helen's

entreaties, follows Hector, who then ceases to reproach, and encourages him with generous kindness. Unfortunately, Pope, to a line not exactly next, but at least near the original,

“What pity sloth should seize a soul so brave,”

adds of his own accord,

“Or god-like Paris live a woman's slave.”—*Book 6*.

And here the ideal as well as the real character of the Homeric Helen, and the mortal daughter of Jove, falls at once into the rank of ordinary women. At the same time the Homeric history is interpolated, inasmuch as Helen voluntarily calls herself such, in fact, as she was, her lover's slave:—

“Ill suits it now the joys of love to know,  
Too deep my anguish, and too wild my woe:  
Be fixed for ever to the Trojan shore,  
His spouse or slave!”——*Book 3*.

But here, too, the lofty frankness and the affecting magnanimity of Hector as suddenly disappear. Just before, he appears treating Helen with affectionate gentleness, while she intreats him to repose from his toils:—

“Now, tir'd with toils, thy fainting limbs recline,  
With toils sustain'd for Paris' sake and mine:  
The gods have link'd our miserable doom,  
Our present woe and infamy to come.”

Pope contents himself with making Hector reply

“This time forbids to rest.”——

Cowper answers with his usual coldness destitute of simplicity; and a more tolerable interpreter is to be found in old Chapman:—

“He answered: Helen! do not seeke to make me sit with thee,  
I must not stay, though well I know thy honor'd love of me.”

Now, if when he had just turned his back, Hector could have thus dictated to his brother, “What pity, thou, a godlike man, should live a woman's slave”—a compound of flattery to Paris, and wily suppression of the celestial birth of Helen—would he not rather have shown himself to belong to that despicable race of dealers in courtesy and malignity, so prevalent among civilised nations, than to those ages and heroic cast of minds less eminent, but not dissimilar, to his own?

We come now to some observations of a more mysterious kind, connected with poetry, in common with every art of imagination. The death of Dudon is described by Mr. Wiffen,

or rather paraphrased, in what to us appears the best manner :—

‘ Thrice he unclos’d his eyes on Heaven’s sweet light  
Once more to feed ; thrice on his elbow raised,  
Fainting, fell back : then the blank veil of night  
Muffled their balls, that giddy as they gazed,  
Droop’d, fix’d, and all was o’er.’\*—

The picture, as it is drawn both in the original and in the translation, pleases, from its exquisite truth to nature, and from the sentiments of piety excited by the situation. Still there is wanting the sublime, which is known by its invariable effects of occupying the whole soul, impelling it at once to feel and to meditate on different thoughts and sentiments, crowded into few expressions. Tasso selected all the traits from the attitude of Dido on her funeral pile :—

“ Ter sese adtollens cubitoque adnixa levavit,  
Ter revoluta toro est, oculisque errantibus alto  
Quæsitæ cælo lucem, ingemuitque reperta.”—*Æn. IV. 690.*

Here the sublime breaks forth in the two last words. The groan which succeeds instantaneously on finding the light, leaves confused thoughts and feelings respecting the situation of the dying woman, whom nature urges still to pant for the light of heaven, and hopeless love makes her no longer able to support it, whilst Death prosecutes his fated task, and involves the victim in eternal night. Doubtless the effect which it took on Tasso induced him not to attempt to imitate what is inimitable. Every thing may be borrowed, embellished, and transformed, even to produce the semblance of originality—except the sublime.

Tasso reaches it, though rarely ; but then he is a great master of a secret almost as unattainable, and certainly known to very few, that of light and shade in his pictures, and of that variety of harmony, whence the arts of painting and music derive all their magic effects. As if it were wholly unintentional, he so disposes a trait, a sound, a gesture, that the others next it shall unite to set it off to most advantage by way of contrast, inso-much, that these others acquire from its single power additional impulse and action.

To judge from the short extract that follows, Mr. Wiffen does

\* “ Gli aprì tre volte e i dolci rai del cielo  
Cercò fruire, e sovra un braccio alzarsi ;  
E tre volte ricadde e fosco velo  
Gli occhi adombrò che stanchi alfin serrarsi.”



not yet appear to have discovered such a secret. Eustace, a younger brother of Godfrey, being enamoured of Armida's first appearance, is represented

' As the winged insect to the lamp, so he  
Flew to the splendor of her angel face,  
Too much indulged in his wish to see  
Those eyes which *pride* and *modesty* abase,  
And drawn within the fascinating blaze,  
Gathering, like kindled flax, pernicious fire  
From its great glory ; stupid for a space  
He stood—till the bold blood of blithe desire

Did to his faltering tongue some few wild words inspire.'

*Cant. 4, st. 34.*

This stanza would have been exquisitely rendered, but for that misplaced term of "pride" applied by the translator to the eyes of Armida in the fourth line, which destroys its effect. That she was proud of her beauty, the poet has already succeeded in describing her, so as to convince every beholder ; but here he exactly aims at removing the least idea of her pride, so as to leave room only for the sweet virgin-blush and timid grace of modesty ; whilst the impetuous ardour of the lover urges him to contemplate her charms more nearly :—

" Ei rimirar da presso i lumi volse  
Che dolcemente atto modesto inchina."

Now, from this reposing attitude of modest loveliness, the contrasted impatience felt by the youth, from the beauty of her eyes, and the eager vivacity which spurs him on to declare his passion to the retiring beauty, derive superior effect.

An expedient, useless, like all others, to a mind destitute of poetic powers, but indispensable perhaps to all competent writers, consists in collating great poets and their eminent translators with each other, more especially in such passages where they may have reciprocally drawn from one another. It is of advantage in teaching how to discriminate at once beauties, for the most part felt indeed, but so impenetrable, as sometimes to be taken for inspiration in the original delineations of genius ; and yet, in the copies which he makes, he fails to catch them, because he sees them not ; and if the failure of men much superior to ourselves at once go to console and edify us, Mr. Wiffen may here avail himself of the benefit of both from their example. Four of these, at least, in contending for the Homeric horse seen flying from his keepers to his native fields and streams, all add some new touches and ornamental details, but without ever departing from the general conception and design of the picture they so much admire. Nevertheless, all lose

sight of the sole animating trait of the picture. To the horse of Homer,\* Virgil† has added elegance, but deprived it of fire. Pope availed himself cautiously of those embellishments lavished by Dryden; still, being delighted with a horse that “snuffs the females,” in the English *Eneid* only, borrowed it to grace his own *Iliad*. With this exception, perhaps Virgil himself might prefer Dryden’s imaginative paraphrase to his own six Latin lines :—

“Freed from his keepers thus, with broken reins  
The wanton courser prances o’er the plains;  
Or in the pride of youth o’erleaps the mounds,  
And snuffs the females in forbidden grounds;  
Or seeks his watering in the well-known flood,  
To quench his thirst, and cool his fiery blood:  
He swims luxuriant in the liquid plain,  
And o’er his shoulder flows his waving mane;  
He neighs, he snorts, he bears his head on high,  
Before his ample chest the frothy waters fly.”

*Eneid, B. 11.*

An example like this is sufficient to justify Mr. Wiffen’s decorations of the same picture, a picture which, in *Tasso*’s imitation, scarcely departs from the features traced out by Homer, and surpasses Virgil’s, inasmuch as with the elegance of the Latin copy, it combines the energy and fire of the original :—

“Come destrier che da le regie stalle  
Ove all’ uso dell’ armi si riserba  
Fugge, e libero alfin per largo calle  
Va tra gli armenti, o al fiume usato o all’ erba.  
Scherzan sul collo i crini e su le spalle  
Si scote la cervice alta e superba;  
Suonano i pie’ nel corso, e par ch’avvampi  
Di sonori nitriti empindo i campi.”—*Canto 9, st. 75.*

‘As, when a wild steed in the stalls of kings,  
Fed for the battle, from his manger breaks,  
O’er vales, o’er mountains to his loves, his springs,  
Seeks the known meads, or to the river takes;  
His curl’d main dances on his back, he shakes  
His haughty neck aloft, his broad hoofs sound  
Like the black thunder; with bright fire he flakes,  
Struck forth from his swift trampling, burns the ground,  
And with his neighings shrill he fills the world around.’

Yet the noble spirit of intelligence in Homer’s steed was lost

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\* Book 6, 506.

† Book 11, 492.

upon Virgil, Tasso, Dryden, and Pope. Not one of them even so much as hinted at the hemistich:—

‘Ο δ’ αἰλαίῃφι πεποιθὼς.

“*He being confident in his beauty, his limbs easily carry him to the wonted fields, the rivers and meadows of mares.*” Here the consciousness felt by the animal of his own beauty is intimately connected, not only with a fine sentiment of loftiness, but with the idea of rational knowledge, since he is aware that his strength and rapidity are derived from the fine proportion of his frame. Again, “the rivers and meadows of mares” seem to bring before the eye the beautiful herd of dams, surrounded by numbers of their playful offspring, which, according to the Homeric custom, serve to fill and diversify the scene, and suddenly to mingle, as it were, a passing tune of other harmony with the play of other images in his verses, which, after pleasingly exciting us, as momentarily die away, leaving us to pursue the thread of the main narrative. There are few similes in the *Iliad* but what boast this peculiarity in their last lines. Julius Cæsar Scaliger, that most dogmatic of scholars, denominated the greatest of critics (but why thus mis-named, heaven knows!) saw only in these lines so many tails, which have no sort of natural connection with the animals to which they are appended” [*Art. Poet.*]. Would any one, moreover, further recommend faithful poetical translations, still applauding scrupulous exactness, while he yawns over the pages of Cowper; let him set himself the task of detecting in them, if possible, the shadow, at least, of the words and of the idea that escaped the eye even of far higher poets—“Of the horse confident in his own beauty for the agility of his race.”

We cannot, indeed, impute to Mr. Wiffen the omission which he found in his text; but we hardly know how to exonerate him from an error committed in matter of fact, at the expense, too, of the beauty of our steed. Tasso never bestowed on him the attribute of “broad hoofs.”

Such breadth of foot would be quite out of proportion with the fineness and swiftness of his legs; their weight would interfere with the elasticity of the muscles; besides, inasmuch as the hoof protrudes itself, is the risk of the horse’s tripping upon the turf. To observe the most beautiful individual specimens of every species of animals, alive, in attitude and action, forms an indispensable precaution on the part of all artists. Nor ought translators here to limit their duty to copying pictures from the original, without comparing them with nature. In the *Iliad*, the most beautiful race of horses—sprung from



celestial blood—has “black manes” [*Iliad*, b. xx, l. 224]. Yet so far from doing them justice, the whole race of translators, poetical and unpoetical, and of interpretators and commentators are content to understand horses of black coat—the most indifferent, if not the worst among the varieties of the species. Surely black manes belong to the bays, which, in fact, are full of vigour and spirit, and they are considered as springing from the primitive race in Arabia. The contrast of the “black manes” flowing over the golden hue of the mantle, attracts admirably to the eye, and the fact of the strength peculiar to bay horses was doubtless derived by Homer from living nature.

Tasso, like him, imposes on his translators the necessity of studying beautiful models of living nature, so much so as to induce them to discharge their obligations towards him, at the risk of infringing others of a higher kind. “I made a covenant with my eyes: why, then, should I think upon a maid?” But then the “mamme acerbe e crude” of the youthful Armida are, in the new translation, “Ripe as the grape just mellowing into wine.”—*Cant.* 4, *st.* 31.

Now can Mr. Wiffen ever have been at the pains of ascertaining whether nature presents the slightest resemblance either in the essence or appearance of her two creations so very different? Besides, the addition of the simile contrives to scatter over other sensual indulgencies that fixed and unalloyed desire of pleasure which the poet particularly aims at concentrating in his view of feminine beauty. Throughout the entire stanza, indeed, he continues to excite the imagination, as if inflaming and directing it to that single object. The grapes and the wine ought to be left to accompany love in the convivial order with which the moderns, as well as the ancients, are accustomed to celebrate the anniversary of Epicurus:—

‘The dart of Cupid I deride,  
And dare him singly to the field;  
If Bacchus fights on Cupid’s side,  
’Tis surely no disgrace to yield.’

*Greek Anthology, by the Rev. H. Bland, p. 81.*

The Armida of Tasso had no occasion for such attendants. She is invested with the omnipotence of love, and arrayed in all the essence of a fatal beauty. However, we do not mean to cast upon Mr. Wiffen the slightest reproach, because he has not sacrificed to his author whatever compact he may have entered into with his own religious feelings. But in such cases he ought to content himself with a mere translation, without

attempting either to add or suppress any idea. "Ripe" is just the contrary of "acerbe e crude;" it could scarcely be applied to the bosom of the Medicean Venus, whilst it is to be admired in the noble statue recently brought to light in Greece, and which possibly represented the *Venus Mother* among the ancients. But in the gallery of the duke of Bedford, three virgin bosoms with "mamme acerbe e crude," in the group of the Graces by Canova, might have inspired an exact and beautiful interpretation of the text of Tasso.

In other respects, the stanza may rank among the many delightful specimens of his version, and here more than ever calls for the praise already afforded him, of availing himself, through happy alterations, of several affected metaphors, like the one of *naked snow* (*nude nevi*), which breathe the *fire of love* (*foco d'amore*) from the bosom of the beautiful maid—antitheses then prevalent, concerning which we have already shown reason to attribute them rather to the necessity of complying with the bad taste of his times than to his own chastened style, which he sometimes even carried to the gravity of historical narrative:—

‘ Her bosom swells to sight ; its lily breasts  
Smooth, soft, and sweet, like alabaster shine,  
Part bare, part hid by her embroidered vests,  
Whose jealous fringe the greedy eye arrests,  
But leaves its fond imaginations free,  
To sport *at will* in those delicious nests,  
And their most shadow'd secrecies to see,  
Peopling with blissful dreams the lively phantasy.’\*

In the introductory specimen of Mr. Wiffen, we read [p. 60], the line

‘ To sport, like doves, in that delicious nest.’

The doves are missing in the present translation, and in their place there is inserted the unmeaning phrase "at will," already self-evident in the "imaginations free" which immediately precede it. Wholly opposite to that of the grape, the simile is in harmony at once with the nature of the passion, with the images of the picture, and with the design of Tasso ; inasmuch as the idea of doves is invariably connected with that of ardour,

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\* "Mostra il bel petto le sue nevi ignude  
Onde il foco d' amor si nutre e desta :  
Parte appar delle mamme acerbe e crude,  
Parte altrui ne ricopre invida vesta :  
Invida ; ma s' agli occhi il varco chiude  
L' amoroso pensier già non s'arresta,  
Che non ben pago di bellezza esterna  
Negli occulti secreti anco s'interna."—*Cant.* 4, *st.* 31.

fidelity, and impatient desire of love. Propertius somewhere observes,

“ Errat, qui finem vesani quærit amoris,  
 Verus amor nullum novit habere modum :  
 Exemplo junctæ tibi sint in amore columbæ.”

Francesca D'Arimino and her lover are wandering together amidst all the terrors of the infernal tempest,

‘ Quali colombe dal desio chiamate.’

Here, however, our limits, as well as what remains to be said, begin to warn us to proceed no further with our extracts from Mr. Wiffen. Such as we have made, though they are but few, and nearly all taken from three or four cantos, will, perhaps, suffice to throw light upon our historical survey of heroic poetry, and at the same time to receive illustration from a comparison with passages furnished by the great models that accompany them. Perhaps, too, what we have said will go to establish as a theorem, that to translate an heroic poem, a writer ought to be endowed with two natural qualities, which no study, however assiduous, can supply, namely, a most sagacious acumen to enable him to interpret, and poetical imagination to make a copy appear like an original. And there are two acquired faculties no less essential—the accurate erudition of an antiquary to assist the interpretation, united to most exquisite critical taste in the fine arts to direct the poetical execution of such a task. Moreover, these four faculties, so opposite in themselves, ought to be equally mingled, balanced, and co-operative, as if they were only one and the same, all aiming at that essential object in every translation, of producing in the reader's mind as much as can be attained of the same effect, so intensely contemplated and so fully developed and possessed by the original.

The whole, indeed, of such an effect is not to be hoped for. The materials of poetry consist of words ; and its elements are *passion—imagery—colouring*—and, above all, *harmony*. The three first may be attained, more or less, by writers eminently competent to master their own language, so as to condense all the concomitant ideas in words beyond their primitive signification, the ideas with which they are continually enriching themselves ; and they may likewise infuse others, and give energy and perspicuity to each, disposing the words to the best advantage, and connecting them so as incessantly to throw light, novelty, and melody, upon each other, a secret of which Milton appears to have been a powerful master. The Greeks made of it an art,



admired with enthusiasm, and its rules were often followed with rhetorical superstition. To it the Romans acknowledged themselves indebted for the merit of their composition :—

“Dixeris egregie, notum si *callida* verbum  
Reddiderint *junctura* novum.”——*Horat. ad Pison.* 47.

How far the present taste may allow it, we do not pretend to determine, as every thing, with respect to style, will appear either as original grace, or a ridiculous affectation, according to the powers and reputation of the writer.

It is the *harmony* of the words, that, owing to its absolute independence of conventional meaning and taste, most frequently baffles the skill of authors, more especially in regard to the task of poetical translations. It is supplied by an accidental proportion of modulations in the vowels, and of articulations in the consonants, and they consist of sounds naturally inherent in each word of each particular language. Nor can the mechanism of the human ear and pronunciation convert soft sweet sounds into harsh and aspirate, nor the acute ones into grave. Now, harmony is most essential to poetry, in order that the mental faculties of readers may be allured by the organs of hearing, which, from their conformation, are constrained to yield to the irresistible attractions that music boasts. But as harmony abounds more in one language than another, according to casual combinations of melodious modulations, and of sonorous articulations, with continual variety of tones, it follows, that where they happen to be happily disposed in a just proportion, they produce a natural music of pronunciation and prosody, in every line, even in every word of poetry. Thus translation, depending upon sounds of a less musical tongue, is deprived of the most efficacious element in preserving the whole effect of the original. Whatever degree of art was employed by Virgil, such as to obtain him a high station above all other Latin poets in the harmony of his verse, he was unable to reach the magical music of Homer, who catches it admirably, even by terminating his lines with repetitions—“Agamemnon king of chiefs”—“Hector rapidly agitating his helmet”—“Helen celestial among women”—“The blue-eyed Pallas”—and similar qualifications, tedious indeed in other tongues, but welcome in Greek, as regular returns of harmonious falls, such as are impatiently expected by the audience of some rich symphony.

Modern poetry is under the disadvantage of possessing no hexameters ; not, as scholars imagine, because the double and single time of long and short syllables is utterly lost to us, as

if that which belongs to the very nature of sounds could ever be lost ; but because the articles indispensable to our languages, more especially to the Italian, and the superabundance of consonants in others, most of all in the German and English, naturally produce such a vast number of long syllables as to overcome the few short ones, and no due proportion can ever be obtained. The Germans, doubtless, boast the measure, but not the melody nor variety of harmony inherent in the ancient hexameters ; and in reading them, they are constrained to drop first one and then another of nearly all their consonants, as the Latins were compelled to do with the letter *s*, on account of the *hiss*, and with the *m*, because, according to the complaint of Quintilian, it sounds like the *bellowing of oxen*. [*Inst. Lib. ix. c. 4.—Lib. xii. c. 10.*] As to the English hexameters displayed by the Laureate, they belong altogether, with the whole of his poem, to a vision.

The Italian, the most harmonious amongst the living languages, in some degree contributes, by the abundance of vowels, to protract the melody of modulations, to temper the hasty articulations of clashing consonants, and consequently to remedy, as much as possible, the short measure allotted to modern heroic poems ; to which, indeed, the rhymes lend attractions, charming (but idly) the ear at the expense of the dignity of high poetry, and requiring from authors not so much a correct designing and colouring of grand images, as the skill of putting together many little ideas of sundry shining hues, so as to embody them into a workmanship of mosaic.

To this contrivance our translator resorts with less art, and more self-complacency than his author, who was sometimes driven to it by necessity ; but as to versification, a solemn music in the original pervades the whole poem ; while it varies its notes in a manner calculated to set off every variety of description. How far his model has enabled Mr. Wiffen to preserve the same harmonious effect, we shall not presume to decide. Doubtless, his great disadvantage of translating into a language much less melodious than the original, is nearly counterbalanced by the Spenserian measure, infinitely better qualified, in point of musical combinations between its lines, than the Italian stanza, which is too apt to fall into a sonorous monotony—a defect which, with the exception of Poliziano, Ariosto, and Tasso, not one amongst so many poets was ever successful enough to obviate even in the short run of a single canto. Amongst those who transplanted it into England, the author of *Whistlecraft* in the serious portion, particularly in the description of the mountains of aboriginal

giants, reminds us of the best of the Italian specimens. We enjoyed the same pleasure here and there in Mr. Rose's translation of the "*Orlando Furioso*," and perhaps more in the abridgment that he published of the "*Innamorato*."\* It would nevertheless have been desirable for him to have availed himself of the Spenserian stanza, inasmuch as the romantic poets leave their translators to indulge their play of fancy with a greater degree of licence than their heroic models.

To this privilege Mr. Wiffen was less entitled, and he assumed it rather freely, owing also to the opportunity of expanding into nine lines, almost wholly compounded of monosyllabic words, the same thoughts and imagery contained in eight of long and consequently fewer words. Still, had he kept the structure of the stanza of his author, he would have sadly experienced that to render, as it were, line for line, frequently amounts to the destruction of all ease and intelligibility in the translation—a fault apparent in Fairfax's *Tasso*, and Rose's *Ariosto*, and quite sufficient to prove that the attempt of giving translations in equal number of lines cannot but counteract both the talent and fluency of any writer. Moreover, the Spenserian stanza, by breaking the monotony, and preserving the cadences by means of the periodical recurrence of an Alexandrine, closes the periods with the solemn gravity of the final strokes of the bass-viol in concerts.

It becomes, therefore, the more necessary for an English translator, who is bound to add ideas and ornaments consistent with the original, in order to fill up the long additional line, to couple imagination with judgment; and consequently, in order to avoid every thing likely to clash with the character of the poem, and of the author, he must at once be a man of sound learning and refined taste—two qualities in which Mr. Wiffen does not appear to us to be deficient, though not supplied with so rich a fund as was requisite. At all events, they are attainments which study and experience will confer on any one possessed of sufficient aptitude and perseverance to acquire them. His translation, taken as a whole, certainly appears to us superior to all preceding ones, as well as calculated to please the generality of modern readers, precisely on account of the luxuriance of its superfluous embellishments, the prodigality of its epithets, and the embroidery of dazzling colours, which do not, however, convey the effect of *Tasso's* style, which always glows, but seldom aims at display. Nor ought

\* See the poetical versions, interspersed in Rose's prose abridgment of the "*Orlando Innamorato*," p. 12, 25, *et seq.* 121, *et seq.* London. 1823.



he, who aspires to couple his name with that of an eminent genius, to confine himself to the object of gratifying the ever-varying and capricious taste of his contemporaries. Writers worthy of aiming at less idle and ephemeral applause, must feel a presentiment—and ought to listen to it—which directs them rightly to appreciate the style which may be congenial to posterity, in spite even of those alterations introduced with the lapse of time into every tongue and literature. In that, as in all the rest, the most useful guides are neither the pedantic nor the metaphysical legislators of rules, but the example and performances of men of genius in the practice of methods discovered and applied by themselves.

Tasso had scarcely reached the twentieth year of his age, when he not only conceived the subject, but prepared the ground-work of the *Jerusalem Delivered*, and composed his critical “Discourses on Heroic Poetry”—neither did he publish the poem till after fifteen years of anxious meditation in the execution of it, and a resignation almost superhuman in altering and correcting every detail in compliance with the advice of friends and enemies, still never yielding any of the principles which he had adopted as essential to the art. When his translator, by following the path of long-continued experience, assisted by those talents which nature bountifully bestowed on him, shall have attained to more perfect knowledge of the same art, he will, perhaps, perceive that, in his case, it must exert itself in checking and regulating rather than in displaying the luxuries of poetical diction. The most free and enterprising genius that ever encountered and surmounted obstacles, not only in his representations of human nature as it exists, but in creating and investing another and a higher with all the illusion of reality in his own ideal worlds, was endowed above all poets with the fortitude of sacrificing scattered beauties to the effect of the whole. On being allured by spectacles which filled his imagination with wonder, and burning to expand his description, he suddenly arrests his spirit in its mid career—“The bridle of my art bids me go no further.”

“Più non mi lascia ire il fren dell’ arte.”—Dante, *Purgat.* c.33.

ART. VIII.—*Observations on the actual State of the English Law of Real Property, with the Outline of a Code.* By James Humphreys, Esq. of Lincoln's Inn, Barrister. 8vo. Murray. London.

[WE conclude this Number of the Review with a Supplement, in a form unusual in similar periodical publications. In the conduct of this work we may lay more than an ordinary claim to the use of the personal plural, for it is rare that our opinions are not shared by the whole of our corps, and still rarer for any of our articles to reach the public without having previously passed the ordeal of more than one judgment. The following composition is published as it came from the hands of the writer; its merits are as peculiar as its style, and it would be an attempt equally vain as useless, to give to such an article a general uniform; and to attempt to conceal the individuality of the manner, if not of the matter. Holding, as we do, the intellectual qualities of Mr. Bentham in the very highest esteem, and having during our course, invariably maintained the legislative views of this distinguished juris-consult, whom we regard as the great founder of a new and better system, it may readily be supposed that we were anxious to ascertain his opinion of a work, respecting which, from its nature and subject, he may be justly considered as the highest authority. This opinion has been communicated to us in the following form; and we publish it unchanged in the most trifling particular. If the weight which Mr. Bentham's name must carry, when thus united with that of Mr. Humphreys, accelerate in the least the progress of that legal reform which is now beginning to be so loudly demanded, we shall be pardoned for having deviated in this especial instance from the approved form of conveying the arguments of a Reviewer.—ED.]

OF a work such as this, the publication forms an epoch : in law certainly ; I had almost said in history.—In possession ; in expectancy ; in prospect ; in project—have you any property in the shape thus denominated ? Deep, in proportion to the value of it, is the interest you have in this work ; signal and unprecedented your obligation to the author of it. Lay even property in this shape out of the question ; still, if by those on whose will every thing depends, his exertions be but duly seconded, strong will be the ground you will have for felicitating yourself on the appearance of this star in the horizon of jurisprudence : for of all that is valuable to man, nothing is there to which, directly or indirectly, its beneficial influence will not be found to extend. It has, indeed, for its direct object and main subject-matter, that species alone of property to which English lawyers, and they alone, have so absurdly and uncharacteristically, instead of *immoveable*, given the name of *real* ; but, for every thing else, to which it is in the nature of law to afford security,—security, in a proportion as yet unexampled,—will, if his plan be carried into execution, be the effect.

Not less signal is the moral than the intellectual merit manifested by it. A young briefless lawyer, who, on a survey taken of the road to advancement, had been fortunate enough to descry this as yet untrodden track, and bold enough to enter upon it,—this was the sort of character, in which, in my imagination, the author had been portrayed. To one who, in the shape of *business*, had nothing to lose,—distinction, even if that were all—distinction, how barren soever—would, of course, have its value. Imagine, any one, my astonishment, when the information reached me that, instead of a young adventurer, the work had for its author a man advanced in years ; a conveyancer, at the very head of his profession ; a reformist who, by every page written, and every hour thus spent, in an occupation not less laborious than meritorious, had thus been making a sacrifice of pecuniary interest on the altar of public good.

Proportioned to the service he has rendered to all who are not lawyers, is the ill-will which, with few exceptions indeed, if man be man, he cannot but have called forth, in the breasts of all, who, proportioned to the advancement given to the art and science, see, as they cannot but see, the defalcation made from the profit of the trade.

Sincere, if ever admiration was, is that which is here expressed : whether it be a blind one, what follows will soon show.

Hale, with all his merits ; Hale, like all lawyers who had



gone before him, and almost all who have come after him, was no reformer: nothing better than an expounder: every thing stated by him was stated as he found it, or conceived it to be: no inquiries as to what it ought to be: in the eyes of lawyers—not to speak of their dupes—that is to say, as yet, the generality of non-lawyers—the *is* and the *ought to be* (or, as in Greek it would be so much better—the *το ον* and the *το δεον*, from which last, Ethics has received the more expressive name of *Deontology*), were one and indivisible. By David Hume, in his *Treatise on Human Nature*, the universality of this practice of confounding the two so different objects was first held up to view.

As to Blackstone, flagrant as were the abominations which, at every page he had to wade through, must have met his eye—not to extirpate them, not to expose them, was his endeavour, but to cover and preserve them: and which of the two quantities has been the greater—the service he has done to the people in the one shape, or the dis-service in the other—both being to his narrow mind, probably, alike objects of indifference—is a question easier to propose than solve.

Before this work came out, *code* and *codification* were rank *theory*; theory; and, as such, objects of sincere horror, with as much of pretended contempt as would mix up with it. Now, at length, they are become *practice*; contempt has been repulsed by its own image, and *horror* has given way to praise. But now to particulars.

Law of landed property being the field,—follow eight distinguishable heads, under which it is believed may be ranked Mr. Humphreys's proposed improvements; some more, some less, explicitly declared.

1. Substitution of apt, to the present unapt, forms of the instruments by which landed property is disposed of—say, for shortness, of *Conveyancing instruments*, or *formulae*.

2. Melioration and extension of the *Registration* system, as applied to conveyances.

3. In the case of *freeholds*, substitution of the generally prevalent to the anomalous courses of descent, namely *Cavelkind* and *Borough English*.

4. Reduction of *Copyholds* to the state of Freeholds.

5. All-comprehensive *partition* of Common Lands.

6. Substitution of a *really-existing Code*, to the present compound, of a really-existing, with an imaginary *civil*, or say *non-penal*, Code of law, so far as relates to landed property. *Codification* this, in contradistinction to *Consolidation*.

7. Appropriate addition to the *Judiciary Establishment*, in so far as may be necessary to the giving execution and effect to the *substantive* part of such proposed Code.

8. Substitution of an apt, to the present unapt, system of *judicial procedure*, or say *adjective law*, in so far as necessary to that same end.

Of the separation thus made, paramount, with a view to practice, is, in my view of the matter at least, the importance. Probability of adoption and despatch in execution join in the requisition, that, of so vast a whole, the number of separate parts be maximized. 1. *Probability of adoption*: because, let the whole plan contain, say two parts, both of them beneficial to the universal interest, but opposed respectively by two distinct particular and thence sinister interests,—one of these interests—not by itself, but with the addition of the other, being strong enough to throw the plan out,—one of them may, notwithstanding the opposition, be carried into effect: whereas, if the separation had not been made, both sinister interests would have stood opposed to it, and there would have been an end to it. Thus stands the matter, in the case of *two*, and no more than two, mutually unconnected sinister interests; but, the greater the number of them, the smaller will, by the supposition, be the number of the individuals united in opposition by each; and the greater, accordingly, the number of universally beneficial arrangements possessing a chance of being carried into effect. For want of such separation,—many are the salutary arrangements which, if separately proposed, would have found no opponent, but which, by being conjointly proposed, have been lost.

Then as to *despatch*: if appositely made, the further the separation is carried, the greater the number of appropriately apt hands, or sets of hands, among which it may be distributed.

Then again as to *appropriate aptitude*: the further the separation is carried, the greater the chance of finding a hand, or set of hands, in a superior degree apt, each of them for one part, though they would not respectively have been equally so for any other.

Now for the application. 1. Improvement the first. *Substitution of apt to unapt formulae*. To this I allot the first rank. Why? because least unlikely to be adopted, and most speedily capable of being effected.

Take any one of them, for example. In so far as, for its being employed and carried into effect, it requires not any alteration in the existing tenor of the Statute Law, or in the course of judicial practice,—it is capable of being carried into

practice by the philanthropist himself, by whose ingenuity it has been devised : and, the greater the number of the improvements thus happily circumstanced, the more extensive will be the number of them effected by this most simple of all means.

Unhappily, by this alone, without assistance from statute law, not very extensive, it is feared, can be the effect produced. At any rate, for each distinguishable improvement, the less the assistance needed from that so difficultly-moved machinery, the better the chance.

Of the load of evil in all shapes with which the instruments in question are oppressed,—*lengthiness* to wit, thence *unintelligibility*, *expensiveness*, and *dilatoriness*—of all this evil the main efficient causes are shown to be composed of the work given to needless and useless trustees, in whom no confidence is reposed, and the addition of the blind agency of judiciary functionaries to the mental labour of professional draughtsmen, in the fabrication of the mendacious and pick-pocket instruments rendered necessary, under the name of *fincs* and *recoveries*. True it is—*this* mass of abuse could not be cleared away by any other hand than that of parliament. But, by that of any professional draughtsman, not inconsiderable are the improvements that may be introduced : the endless sentences at present in use may be broken down, and reduced to the scantling of those employed, on the like occasions in every other country, and on all other occasions in all countries :—for the purpose of enabling the most unpractised eye to see its way clearly over the present labyrinth, and take repose wherever it found need,—the several topics, distinguishable in those huge masses of matter, which, in the present practice are compressed together into the compass of one sentence, may be presented to view by their already universally known denominations : the matter, belonging to each such topic, may be formed into a separate sentence ; and to each such sentence, to save the need of repeating it *in terminis*, or by a little less lengthy general description, a numerical appellative may be allotted. Of the general indication thus given, exemplification, and thence (it is hoped) elucidation, will be seen in the course of the ensuing pages.

As to the clearing the system of the other more highly morbid symptoms,—I am but too sensible how far, even with these additions, his plan of operation would fall short of meeting the disorder with any thing like an all-sufficient remedy. Still, however, I see in it the least unpromising of all his generous enterprizes. In respect of the force of the sinister interests it would have to encounter, it stands less unfavourably circumstanced than any other. By rendering conveyances, and the



contracts embodied in them, somewhat less unintelligible to parties and other *interessees*,—it would lessen the mass of suffering in the shape of disputes and disappointments, and in so far lessen the abundance of the lawyer's harvest: it would reduce, in some degree, the profit of the Conveyancers' company,—and of the firm of Eldon and Co. in Chancery and the House of Lords: but it would not, as any system of procedure capable of fulfilling its professed end would, go to the blowing up the manufactory of factitious litigation at one explosion,—and, at the first proposal of it, call up, in defence of matchless constitution, that judiciary system by which, to ninety-nine hundredths of the people, access is denied to so much as a chance for justice.

II. Improvement the second. *Giving efficacy and extension to Registration.* For this purpose I shall have to treat our artist with a sight of an instrument (a fruit of female ingenuity) suited to this one of his beneficent purposes, in a degree beyond what he can have had any conception of.

III. Improvement the third. *Abolition of the anomalous courses of Descent.* Absolutely speaking, yes: but comparatively speaking, no great good seems here to be expected: on the other hand, no great resistance to be apprehended.

True it is, that this improvement, the subject matter of it being an insulated one, is in its nature capable of being carried into effect by itself. But, setting aside the supposition of an all-comprehensive code,—or at any rate an all-comprehensive *property code*,—the benefit produced by it would be comparatively inconsiderable; its principal, if not only one, being that which it would have in the character of an instrument of simplification.

IV. Improvement the fourth. *Reduction of Copyholds to the state of Freeholds.* Highly beneficial this: but at the same time unavoidably operose and tedious. The sooner indeed it were begun, the better; but, in no other shape need, or should, the commencement of the course of improvement wait either for the consummation or the commencement of it. Pride would set in array against it the aristocracy of the country, in their character of lords of manors: pecuniary interest, the lawyer-class in the character of stewards: not but that, in the long-run, pecuniary compensation *ab intra*, with or without a little of ditto *ab extra*,—at the expense of the whole community, to whom the whole rule of action would thereby be rendered so much the more accessible,—might peradventure, gain the votes of the one, and quiet the alarms and clamours of the other.

V. Improvement the fifth. *Partition of Common Lands.*

To a certain extent, this improvement is comprised in that which consists in the conversion of *Copyholds* into *Freeholds*: to a certain other extent, that is to say, in so far as the land is already in a state of freehold—or, being copyhold, can be divided into separate parcels, leaving the manorial rights in other respects untouched,—it will require the arrangements, for the effectuation of which the *General Inclosure Act* was intended, and the several particular Inclosure Acts have been, and continue to be intended. As to this matter, true it is, that the greater the degree in which the provisions of the particular Acts can be generalized, and those of the general Act improved upon, of course so much the better: and propositions for this purpose may of course be expected from the ingenuity, experience, and public spirit of Mr. Humphreys. But, in addition to *those* efficient causes, others of a peculiar nature, and not quite so prompt in growth, are required; that is to say, *capital* in proportionate quantity—*capital* in the appropriate hands—and a state of things such as will admit of the giving to it the direction in question to advantage. Now, as to *capital*, it cannot be made to accumulate in, or find its way into, these same hands with quite so much celerity as may be given to the operation of drawing up an act of parliament: and a state of things which affords probability to the opening of the trade in corn to foreign cultivators is but little favorable to increase in the home-production of it. Not that, by these circumstances, any objection is opposed to that part of our learned reformist's plan which consists in the procurement of the appropriate mass of *information* subservient to these same purposes. But of that in its place.

VI. VII. VIII. Improvement sixth, seventh and eighth—*Codification*. Substitution of really existing law to fictitious: Substitution of an apt to an unapt judiciary establishment and system of procedure: as to these three parts in conjunction, there will be more or less to say before this article is at a close.

Now for a trespass on his patience. The time is come, when the scalpel must be set to work: state of it much rougher than the anatomist could have wished: but neither time nor space admit of that smoothness which would otherwise have been endeavoured to be given to it. More than fifty years ago, I took it up for the first time, with Blackstone lying on the table. The subject being so different, it is with affections correspondently different, and proportionable reluctance, that I take it in hand now. In Blackstone, every abuse has its varnish or its apology: in Humphreys, none. Should the liberties now taken have any such effect as that of calling forth like for like, my gratitude will not be less sincere than my admiration is now.

Observations applying to all three formulæ viewed together are the following :—

I. *Emendandum the first.* Subject matter, length of each one of the three pattern instruments, and symmetry as between the three: Description of the subject-matter of disposition insufficient, and thence, at the same time, by the whole amount redundant and useless. Of the subject-matter of a sale, the number of diversifications being, practically speaking, infinite—no one can, with propriety and safety, be taken for, and thence copied as, the representative of *any* other: much less of *all* others. In each instance, what should be given is—in the body of the instrument, a generic designation, as short as possible so as to answer the purpose: in the *schedule* (a sort of appendage referred to, but not exhibited in the author's draught), a description, the particulars of which must, in the nature of the case, be all of them *individual*. Of a building, for example, the *generic* description will, of course, be of one sort; of a piece of land, of an altogether different sort. As to the individual description—for the purpose here in question, in addition to other purposes, all *habitations* should be *numbered*. For the process of enumeration, an all-comprehensive plan may be seen in my Parliamentary Reform bill. Of a piece of land, on which there is no building, the description of the *site* will be given, by giving the name of the nearest road, with the several names of the several fields of which it is composed. In respect of the piece of land, there can be no difficulty: since, in fact and of necessity, in which ever way held, whether in commonalty or in severalty, every field has its name. Of the compound subject-matters, composed of buildings with land annexed, the mode of description is rendered familiar to every body by those printed *Papers of Particulars* which are employed on the occasion of sales, whether made by auction or by hand.

Behold here, then, already drawn, though by an intrusive hand, the proper contents of the *schedule*: say, rather, the *only* proper. For, what other description of the subject-matter can be so proper for a deed of sale, as the very one to which, by the agreement to purchase, the purchaser had given his assent?

But, the knot of lawyers must be paid—paid, for doing, in not improbably a bad manner, what has been already done in the best. If, for appropriate accuracy, the scientific eye affords a promise of being of use (and I do not say but that in some instances so it may be), the proper time for its operation is *antecedent*, not subsequent to the adjustment of the subject-matter of the conveyance—the *Paper of Particulars*.



If this be so, useless then is every syllable occupied in individualizing the subject-matter in the body of the deed.

Behold now the quantity of surplusage thus employed ; employed, in giving to conception difficulty, and to expense increase. In the deed of sale, lines 16, whereof surplusage in this form, 5, in the mortgage-deed, lines 19, whereof surplusage in this form, 11 : in the marriage-settlement deed, lines 96, surplusage in this form, 11 : lines in all three together, 131 : whereof surplusage in this, besides other forms, 27.

Now as to length of *sentences*, separately considered. The more lengthy the sentence, the greater the fatigue of him whose misfortune it is to be subjected, on one account or other, to the obligation of reading it and lodging the contents in his mind. When the fatigue rises to a certain pitch,—such is the reader's anxiety to reach the end of his labour,—that, for want of a resting place, he slides over the topics, without dwelling upon any of them the length of time necessary to the impregnating his mind with an adequate conception of it : on the other hand, let it be broken down into its several distinguishable topics,—so many topics, so many sentences ; so many sentences, so many resting-places : and whatsoever topic requires particular consideration, will be considered at full leisure : no time wasted in disentangling it from the rest.

What is more, no danger of the draughtsman's own mind losing itself in the mizmaze. This apprehension, is it a fanciful one ? In proof of its well-groundedness, I call two witnesses : one of them, our learned reformist himself, the vast reduction, made by him in the extent of the labyrinth, notwithstanding ; the other, no less a personage than a learned lord, the Lord Advocate of Scotland.

1. Enter, first, our learned Author.—Evidence of bewilderedness, an offence against the laws of Priscian. *Locus delicti*, Family Settlement Deed :—*Corpus delicti*, (as the Romanists say), the words “ convey, charge, and settle.”—The loves of the *parts of speech* are no secret to any boy, who, in any one of the Royal Schools, has been initiated in the gymnastic exercise, of which a poetical grammar is the instrument. Here, so it is, that, to enable them to beget a meaning, the three amorous *verbs* require, each of them in the shape of a *preposition*, a different mate : convey, to ; charge, with ; settle, on. Now, then, as to the fate of these same lovers. After a long and adventurous period of unsatisfied desire, burning, in one instance, through a course of not fewer than fifteen out of the ninety-six lines, convey is at last made happy in the embraces of his dear to ; charge, in the

arms of *with*. Not so with the luckless *settle*. In vain has the wood been hunted over for a mate for him; no such comfort for him is to be found, and he dies childless.

Not that *Miss Campbell*, for whom the benefit, attached to the burthen conveyed by the verb *charge*, is intended,—is, at the end of the story, disappointed of it; for, in a recess of the wood (candour requires the confession) the preposition *to* steps in at last, steps in a second time to her assistance; and her two hundred a-year pin-money, and five-hundred a-year jointure, form the result.

2. Enter now *Lord Advocate*.—If a warrant,—from practice, power, and dignity, in high situations,—can afford consolation under the imputation of a grammatical peccadillo, the learned delinquent needs not be inconsolable.

Opening the House of Commons Folio, intituled “Return, Parochial Education, Scotland, Order for Printing, 27th February, and 21st May, 1826,” you will find it written in page 3, “Letter from the Lord Advocate of Scotland to Henry Hobhouse, Esq.” Follows here what is relevant to the present purpose; what is not relevant being eliminated.

“I had the honour to receive your letter, stating, that the king, having been pleased to comply with an humble address *for*” (the letter-press is thus italicized) “an account showing,” (then follows the matter of a folio page) “and desiring” (mark here the King, instead of *commanding*—Oh! treason! *desiring*—deprived of all command, and reduced *to desire*!) desiring that I would take the necessary steps ‘for *procuring*, &c. and transmit, &c., that it might, &c. previous to being laid before the House of Commons.’” Well—the king having been pleased, what then? Nothing. For at the word *Commons* ends the paragraph, closed by a full-stop. Then comes the next, beginning with “I beg leave to state that, in obedience to the above order, it had occurred to me,” and so forth.

Now, as to the effect produced on the faculties of the pre-eminently learned composer, by the folio page—the unbegun and unended sentence which, lest the like effect should be produced on the mind of the reader, is here omitted.—Such is its narcotic quality, that while dragging on with it, he falls asleep, and in the course of his sleep dreams of a certain “order,” to which he is rendering obedience. Rubbing his eyes,—“the above order,” cries he.—Order? *What order?* Look the whole page through, no such thing as *an order* will you find.

II. *Emendandum the second: in the three patterns taken together, another feature of redundance: and the redundance pregnant with error on the part of learners.* Of the particulars

in question, the tenor different in each species of deed : yet, whatever is capable of being taken for the subject-matter of a marriage settlement is alike capable of being taken for the subject-matter of a sale, or a mortgage. Evil effects three : 1. Error liable to be produced in the minds of learners, in supposing the general necessity of the difference exhibited in the individual case. 2 and 3. Perplexity, and waste of labour, in examining the three, to ascertain whether such necessity has place. Sharers in these dangers, non-lawyers all : law-students as many, and tyro-lawyers not a few.

Note that, on the author's own plan,—between the two species of dispositions, there are but two points of difference : one is—*that*, to which expression is given, by the substitution of the word *charge* in the deed of mortgage to the word *sell* in the deed of sale : the other regards the mode and result of the re-payment to be made of the money lent. Had the exhibition been thus confined to the points of difference, would not the aid given to conception have been rather more effectual ? Of needless diversity another bad effect is—the distracting the attention from the needful. “*Eadem natura, eadem nomenclatura.*” (Same the ideas, same the words should be). In contemplation of the above inconveniences, this rule has been ventured to be delivered elsewhere. If it be worth remembering, the jingle in the Latin, the metre in the English, may have their use. In composition for ordinary purposes the opposite propensity is in these days prevalent : when the import meant to be conveyed is the same, to find for each occasion a different expression, is the task the writer sets himself. Harmless, when clear and muddy, right and wrong, are matters of indifference : Not altogether so in legal instruments, on which every thing that is dear to man depends.

III.—*Emendandum the third.* Sentences more lengthy than necessary. Lengthiness of the whole of a discourse is one thing : lengthiness of these its component parts, another. Of the lengthiness of the whole, consequences such as have just been seen, are the result. Lengthiness of the parts separately considered is the imperfection now more particularly meant to be brought to view. By the manner of printing, it looks as if the reduction of the apparent, superadded to that of the real, length of the *whole*, had been among the objects of our learned reformist's ambition.

As to paragraphs, in no one of the three instruments does the letter-press exhibit the appearance of more than one. True, as to sentences, in the *Deed of Sale*, you might, if hard pushed, make any number, from *one* to *five*, according as you



pointed the paragraph : though by the punctuation *one* only is *there* exhibited. But, in the *Mortgage Deed*, which in the length of the whole is much the same as that of the other, you cannot make more than *one*.

As to the *Marriage-Settlement Deed*, not a single resting place was I able to find, till I came to the word *Allen* in the *second* page, line 24 : quantity of matter travelled through, these 24 lines added to the 26 lines in page the first :—total quantity, fifty lines :—more than half of the whole, with its three full pages, and its 96 lines. Here at length it is—that, in breach, as it should seem, of his original plan, as indicated by the letter-press, our learned draughtsman,—so completely had he run himself out of breath,—has, in compassion for self and readers, though it should seem not without reluctance, put down a full stop.

In page 3, line 14, having a *proviso* to put in, he of necessity begins a fresh sentence : but, as if to make us believe that no addition is thereby made to the number of the sentences, he has done by us (pardon the expression) rather unfairly : putting, instead of a period, no more than a comma, at the close of it. So again, when he comes to line 25 of this same third page, he plays us a similar trick : and, as if the better to disguise it,—at the commencement of this *last* proviso, he omits the distinctive type employed for the assistance of the eye at the commencement of the *first*.

Thus it is that, after so much as has been done by our learned reformist in the way of self-purification—purification of his style from the malady of lengthiness, the leprosy of lawyer-craft, still that which has been seen has as yet cleaved to it : to complete the purification, a little sprinkling, such as is here offered, of the cleansing water, remains wanting to it.

IV.—*Emendandum the fourth. Indication of Topics, none.* Horrific, of course, to learned eyes, will be so flagrant an innovation, as the one, the absence of which is thus audaciously made a matter of charge. *Lay-gents*, however—and for them alone am I of counsel—*Lay-gents* will, I flatter myself, see a convenience in it. Besides the clearness and promptitude it gives to conception, it performs the function of a Mac-adamizing hammer, in breaking down the aggregate mass ; so many topics, so many denominations ; so many denominations, so many sentences.

So much as to lengthiness on the part of the discourse. Now as to the consequences of it on the part of the readers. For my own part, (ex-learned as I am, and therefore, if ever, no longer learned—in the law in general, and in conveyancing law in particular, never learned at all, till I got this smattering at

the feet of my Gamaliel ;—) for my own part, I confess my perplexity to have been extreme ; as (I fear) will, by blunders in I know not what number, be but too amply testified. Nor can I (for I am a little out of humour, and revenge is sweet) ; nor can I (I say) altogether suppress my surprise, that in this perplexity I have had a sharer in my learned master himself :—witness, *inter alia*, the same *exception* thrice imbedded, twice repeated, at the expense of four lines out of the 96, in this one principal paragraph.

*A propos* of these same *exception clauses*, I may, perhaps, take the liberty of submitting to his consideration the course which any body may take for evolving, and which I always take for avoiding, such involvements ; but this, if any where, must be in another place. At any rate, examples in abundance may be seen in “ Official Aptitude Maximized,” &c. just issuing from the press.

At the present writing, I must not neglect my clients : least of all my fair one, the heroine of the piece, for whose interest,—how ill-soever our learned reformist may think of me for the preference,—I cannot help feeling rather more solicitude than for his :—she having so much more at stake ; and, in this her approaching condition, having so many ladies fair to share with her in the exigencies belonging to it. No : I will not think so meanly of her understanding, as not to suppose that,—how happy soever in her *Mrs. Allen* state,—it might not, on some occasion or other, occur to her, in her anxiety for the dear little ones, to cast an eye over this her *magna charta*, and, in its pages, as in a horoscope, seek to read their fate. This being supposed,—it cannot, I think, but be more or less matter of accommodation to her, to find in those same pages a possibility of understanding it. This accommodation, in so far as time and space would allow, it has, in the way that has been seen—and will, in another way, be more particularly seen,—been my humble endeavour to supply her with.

To render perceptible to sense the degree of improvement introduced by him in respect of lengthiness, the ingenuity of my learned master has, with happy effect, exhibited, in parallel pages, his proposed instruments, framed upon his reduced scale,—placing them by the side of those which he found in use. By the long succession of vacancies, the attention of the reader is in every two pages drawn anew to the difference ; vacancies, in the deed of sale, 20 ; in the mortgage deed, 10 ; in the marriage settlement, 23. In the mind of his adventurous pupil, ambition, not altogether unmixed with a dash of envy and jealousy, has inspired a similar course ; the dwarf upon the

giant's shoulders is an emblem which the temerity will be apt to present to recollection in the minds of readers. How small the utmost ulterior reduction I have been able to effect, will be obvious to every eye.

By the particular type employed in the re-print here given of Author's draught, indication is given of most of the words regarded as capable of being eliminated, without prejudice either to *intelligibility* or to *certainty*, supposing the form exhibited in the Reviewer's draught substituted. In the Reviewer's draught a further liberty is taken, by the insertion of a few additional topics, which, for the reasons given in the notes, afforded a prospect of being of use. By a correspondent sign these also are rendered, in like manner, more readily distinguishable.



## I. DEED OF SALE.

*Author's Draught. (No Topics given.)*

“ PROPOSED FORM OF A CONVEYANCE TO A PURCHASER.\*

“ This Deed made <sup>a</sup> the 25th day of March, 1926, Between  
 “ Andrew Allen, of                      of the one part,<sup>b</sup> and Benedict Butler,  
 “ of                      of the other part, Witnesseth, that, in consideration of  
 “ £.1,000 sterling<sup>c</sup>, by the said Benedict Butler, now paid to the  
 “ said Andrew Allen, for the absolute purchase of the property<sup>d</sup>  
 “ hereinafter mentioned, The said Andrew Allen Doth sell<sup>e</sup> and  
 “ convey unto the said Benedict Butler, All that<sup>f</sup> messuage with the  
 “ out-buildings, garden, and other appurtenances<sup>g</sup> thereto belonging,  
 “ And all those several parcels of arable meadow and pasture land  
 “ therewith held, which premises contain in the whole five hundred  
 “ acres, and are situate in the parish of *Weston*, in the county of  
 “ *Salop*, and are now occupied by William Woodrofu, And the  
 “ same do together form a farm usually called *the Hope Farm*,  
 “ All which messuages and lands are particularly described in  
 “ the Schedule hereto,<sup>h</sup> annexed by the names, quantities, qualities, situ-  
 “ ations and other circumstances necessary for the distinction  
 “ thereof.”

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\* The words regarded as superfluous are distinguished by the Black Letter; but in some instances simple elimination may not be sufficient: *substitution* may be necessary: as to these, see Notes on *Reviewer's Draught*. The words employable in a blank form are in Roman characters; those which must be different on each individual occasion, in Italics. So likewise in the Deed of Mortgage. To the Marriage Settlement, for reasons mentioned in Note (1) thereto, these differences in the type do not extend, except as to the Black letter in a few parts.

## I. DEED OF SALE. ALLEN to BUTLER, Ao. 1925.

*Reviewer's Draught,\* (with Topics.)*

## I. PARTIES DESCRIBED.

No. 1. Seller's name<sup>a</sup>. *Andrew Allen.*No. 2. Seller's condition<sup>b</sup>, *Esquire.*No. 3. Seller's habitation<sup>c</sup>. County, *Shropshire*; Parish, *Weston*; Spot, *Allen Hall.*No. 4. Purchaser's name. *Benedict Butler.*No. 5. Purchaser's condition. *Butcher.*No. 6. Purchaser's habitation. County, *Shropshire*; Parish, *Weston*; Spot, *Fore Street.*

## II. SUBJECT-MATTER DESCRIBED.

No. 7. Subject-matter of the Sale—its species<sup>d</sup>, *A Farm.*No. 8. Subject-matter of the Sale—its individual description.  
See Paper of Particulars hereto annex, marked A,  
and signed by the parties.

## III. EQUIVALENT GIVEN FOR THE SUBJECT-MATTER.

No. 9. Purchase Money<sup>e</sup>. *One Thousand Pounds.*

## IV. TIME, PLACE, AND TOKENS OF AGREEMENT.

No. 10. Seller's name in his hand-writing,<sup>f</sup> in token of Agreement. *Andrew Allen.*No. 11. Day on which Seller's name was written. *April first, 1925.*No. 12. Place<sup>h</sup> in which Seller's name was written. *Allen Hall, near Weston, Shropshire.*No. 13. Purchaser's name in his hand-writing in token of Agreement<sup>i</sup>. *Benedict Butler.*No. 14. Day on which Purchaser's name was written. *April first, 1925.*No. 15. Place in which Purchaser's name was written. *Weston, Shropshire.*


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\* What is in Roman Type, being of general application, may be in print; that which, being in each instance different, cannot be included in the Letter-press, is shown by the *Italics*. So in the Mortgage Deed and Deed of Settlement. The Nos. the addition of which is proposed by the Reviewer are in smaller type.

*Notes on Author's Draught.*

<sup>a</sup> *This Deed made.*] Pregnant—always with ambiguity, frequently with falsehood, sometimes with deception and unexpected loss—loss to the amount of the whole value of the property, is this word *made*. Made? To which of a number of persons, in quality of *maker* or *makers*, does this participle make implied reference? The draughtsman by whom *preparation*, or the parties by whom *adoption* and *authentication* are given to it? I say *to which*:—for, seldom does it happen that the two so different operations are the work of the same day: not unfrequently, days, weeks, or months—not to say years—must, in the nature of the case, intervene between the performance of the draughtsman's part, and the performance or performances of the part or parts of the party or parties; in particular, on the purchaser's side. On each side of the transaction, what may happen is—that *parties* in any number may be separated from each other by any interval in the field of *space*; and, in consequence, the *acts* by any interval in the field of *time*. Moreover, in the case of any one or more of them, payment may be divided amongst *times* in any number; it may be made, as the phrase is, by *instalments*.

Here, then, is a Gordian knot, which, somewhere or other, and somehow or other, Judge and Co. must have cut by their instrument of all-work—*falsehood*. Of the statement here in question, the *truth* has, somewhere or other, been pronounced immaterial. But—in the nature of the case, far indeed is it from being so: it is of no small importance. While, without prejudice to the currency of the instrument, a false *place* of signature, or a false *time*, or both, may be inserted,—a forgerer is comparatively at his ease:—not so where place and time are, each of them, required to be individualized. In, for example, the *house* asserted in the instrument,—on the *day* asserted in the instrument,—was the party, in fact, actually present? In these questions may be seen an obvious subject-matter, for an inquiry,—the searchingness of which, a forgery will be in no common degree fortunate, if it abides.

<sup>b</sup> *Part.*] In the correspondent place in the Mortgage Deed, this word is omitted, supposed by error of the press.

<sup>c</sup> £. 1,000 *sterling*.] Sums should be expressed rather in words than in figures. *Example*: draughts on bankers. *Reason*: in figures, danger of ambiguous delineation, and subsequent falsification: accordingly, in the Author's deed, words are employed. *Sterling*? In these days, is there any use in this word? Yes; to distinguish English, not only from Scottish



pounds, but from the pounds of several other nations: in Ireland and the distant dependencies, to distinguish real money, from fictitious—called *currency*.

<sup>a</sup> *Absolute Purchase.*] Of this term,—to render it clear of ambiguity and obscurity,—in the eyes of parties, if *lay gents*,—not to speak of lawyers, *fixation* and *explanation*—authoritative, appropriate, and adequate—would be altogether needful. No where at present is any such explanation to be found. No otherwise can it be brought into existence than by a Code. Supposing it thus brought into existence, reference to the text of the Code is among the references which would require to be made from, and inserted in, the draught. As for *Judge-made*, alias *Common Law*,—it *fixes* nothing; it keeps every thing *afloat*: it *explains* nothing; it keeps every thing involved in clouds: it is a tissue of self contradictions: a sage of the law gives no clear view of any thing: *nemo dat quod non habet*; at the head of them sits and rules a Judge, who—(as every body knows)—knows less than any of them how to do what he is employed to do—to decide,—and knows not how to do any thing but the reverse of what he is employed to do—any thing but how to raise and introduce, instead of dispelling and excluding, *doubts*.

<sup>c</sup> *Sell.*] By this one word *sell*, reference is made to two distinct topics: 1. *the quantity of interest* disposed of; 2. the absence or presence of an *equivalent*: only in so far as regards the quantity of interest, does this topic coincide with that to which reference is made by the words *purchase of the absolute property*, as per note: <sup>b</sup>—benefit of transmission, to successors determined by the choice of parties, included.

As to what concerns *equivalents*,—the transfer may be, as here, *with* and *for* an equivalent, or *without* one; if *with* and *for*, the equivalent may be either, as here, of *money* (call it in this case *pecuniary*)—or of money's worth, in any other shape (call it in this case, *quasi-pecuniary*): if *without* equivalent,—the transfer is *gratuitous*; the transaction may be termed a *gift*; the instrument a *deed of gift*.<sup>\*</sup> *Grantor* is a term which—where the transfer is not gratuitous, but for money—our learned draughtsman, I observe, employs on several occasions. It has, however, the inconvenience of presenting to view the idea of *gratuitousness*. *Disposer*, a term having for its *conjugates* the verb *to dispose*, and the substantive *disposition*—a term in familiar use—would have the convenience of including the three transac-

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<sup>\*</sup> (Gift). To obviate ambiguity, the use made of this word in the technical sense, should, in the Code, be abolished.

tions, *sale, mortgage, and marriage-settlement*. For a correlative to it, an obvious term is *dispossee*: and this same termination *ee* is indeed used in the same sense in the word *mortgagee*, and in many other words. But, it has the disadvantage of presenting to view the *subject-matter disposed of*; in which case no *person* is, unless he has the misfortune of being a slave. Accordingly, if it depended on me to choose a word,—a word I would rather employ is *receptor*: *receiver*—the word already in use—having the disadvantage of presenting, exclusively, the idea of a person, whose interest in the subject-matter is only that of a *trustee*. In the case of an *immoveable* subject-matter of property, as here,—gratuitous transmission, as every body sees, is not, by a great deal, so frequent as in the case of a *moveable*; obvious cause of the difference, the difference in respect of value. Nor yet (as every body knows) is *gift* of an estate—absolutely without example. This, therefore, is a mode of *transfer*, or say *transmission*, for which also provision will require to be made. In the arrangements proper to be made in the code for the two cases,—one difference there is, which is highly important, and not unobvious. In the case where an *equivalent* is received,—the eventual obligation designated by the word *warranty*, presents itself as being prescribed by established principles: not so, in the case where *no* equivalent is received. In both cases, this word *warranty* presents itself as an obligation, of which,—either in the draught or in the Code, with reference to it from the draught,—express mention should be made: and of which it should accordingly be said, either that it *is*, or that it *is not*, intended to have place.

[*All that.*] As to the insufficiency and consequent inutility and redundancy of the necessarily incomplete particularization, of which these words form the commencement,—see above, in the observations as to all those deeds considered together.

[*Appurtenances.*] Appurtenances? No, not I: if I were Mr. Benedict Butler, no such things would I have. Needless, useless, and, unless inoperative, mischievous,—would be this word. Look at the Books: the only definition of it you will find warranted is—any thing, and every thing which, in virtue of some other word in the deed, would pass without being mentioned in it: but if so, then to what use mention it? Not to Miss Campbell, not to Mr. Butler, no, not even to Squire Allen—would information in any shape be presented by it: nothing better than appalment and perplexity. Not that imagination could present them with any thing like the uncertainty and consequent mischief it is pregnant with. Look for it in the Books, though it were no further than Jacob's dictionary, you

will find that *outhouses* are appurtenances to *messuages*; *messuages* to *messuages*, not. *Orchards* and *gardens* are appurtenant to *messuages*; *lands*, not: whereby you will learn that orchards and gardens are not *lands*. See now one effect of it in these same *formulae*. In this same Deed of Sale, mention is made of it; in the Mortgage Deed, in the Family Settlement, not. A tyro conveyancer—what might not his sagacity infer from this? that in the case of a sale, *appurtenances*, whatever they were, would *not* pass without express mention made of them; in the two other cases, yes: a tolerably good sample this of the effects of *surplusage*. If, to any mind, this word presents any idea more definite than the above, it must be *that*, for giving expression to which, our author employs the Rome-bred law-word, *servitude*—mention of which may require to be made further on.

" *Annex.*] This word is here inserted, as having (obviously by error of the press) been, or the equivalent of it, omitted *out of the letter-press*.

*Instructions for filling up the Blanks in Reviewer's Draught.*

<sup>a</sup> *Seller's name.*] Write all names at length: christian names if more than one, as well as surname or surnames. In the case of a non-christian (Jew, or Mahometan, for example), the equivalent, if any, to the christian name, will be included.

If more than one join in the sale, their names will be written, beginning with that surname which, in the order of the alphabet, stands first.

<sup>b</sup> *Seller's Condition.*] In case of *dignity*, insert the title; of titles more than one, the highest: in the case of a *lord*, if a peer, the peer's name, with that of the peerage: in the case of a *bishop*, his name, with that of the bishoprick: in case of a *professional* man, his profession: in case of a *commercial* man, his business, as *manufacturer* (naming the subject-matter of manufacture), *merchant*, *shop-keeper*, *tailor*, *shoe-maker*, *carpenter*, *smith*, &c.: in case of a man not following any *profit-seeking* occupation, say *esquire* or *gentleman*.

In the case of a female—if never married, say, in the old accustomed form, *spinster*: adding the dignity, if any, or the profit-seeking occupation, if any: *single woman* will not serve, as not including females under age, and as not distinguishing married females from widows. In case of a married woman—concurring, for example, with her husband in the sale,—mention her maiden name, then her husband's, as directed in note <sup>a</sup>, and his condition as to occupation, as per note <sup>b</sup>.



<sup>c</sup> *Seller's habitation.*] If there be no fixed habitation, write the word *none*. If there be a habitation, express it as in letters brought from the General Post-office. If the habitation be *not* in a town, insert the name of the county and that of the parish : if *in* a town, insert, between the name of the county and the name of the parish, the name of the town. If there be fixed habitations in places more than one, insert them all. Add in every case either *householder* or *inmate*.

<sup>d</sup> *Subject-matter....it's species.*] For instance, where integral, and uncompounded, say *a piece of land, cultivated or not cultivated, or a dwelling-house, or another building*, as the case may be : when integral, and compounded, of a dwelling-house (with or without outhouse and garden respectively), with cultivated land, say *house with land annexed, or farm*, as the case may be : if the subject-matter be a fractional right, as a right of *mine-working* under land which belongs to a different proprietor—or right of *fishing*, or right of *drawing water* from a mass, current or stagnate—or share in the tolls of a *road* or *canal*—mention it accordingly. If subject-matters more than one are included in this deed, mention them accordingly.

<sup>e</sup> *Purchase money.*] For certainty, write the sum at full length in words ; adding it, for facility of conception, in figures. If in whole or in part, the equivalent transferred consists of specific subject-matters of property moveable or unmoveable, one or more,—a *ship* (for instance), a piece of *jewellery*, or another piece of land,—mention them.

<sup>f</sup> *In his hand-writing.*] If able to write, the person writes it, as above directed ; if not, he makes with his pen and ink the mark of a cross + ; after, and close to it, some other person writes the name, adding the word *witness* with his own name, written as directed in note <sup>a</sup>. In the case of a person of the female sex, a line is to be drawn through the word *his*, and the word *her* written over it.

<sup>g</sup> *Day.*] The year, month, and day of the month : first, in words ; then in figures. Properest writer in each case, the seller or purchaser himself. For greater certainty, the day of the *week* may be added. If (as may happen by mistake), the day of the month and that of the week do not agree, the day of the week will be most likely to be rightly supposed ; the days in a week being, in comparison of those in a month, so much fewer.

<sup>h</sup> *Place.*] Designate the place as directed in note <sup>c</sup>.

*Notes to Reviewer's Draught.*

' *Agreement.*] This accordingly will, in general, in respect of the payment of the money, be also the day, and the place, the place of performance; and on this account, to avoid carrying the form of the draught to an inconvenient length, the circumstances which here follow are not inserted in the list of topics. But, in possibility, they are susceptible of diversification without limit: and in practice they are accordingly diversified. To prevent mis-statement, with the falsehood involved in it,—the attention is therefore, in the proposed additional Nos. drawn to them, that appropriate provision may be made in the Code. In the present practice, falsehood is an instrument ever at hand for the solution of all difficulties: by the practitioner, employment is given to it; by the Judge, the desired effect. Here follow the numbers.

No. 16. Day or days, on which the purchase money was made over.

No. 17. Place or places, at which the money was at the respective times made over.

No. 18. Person or persons, by whose hands respectively the money was made over.

No. 19. Day or days, on which the purchase money was received.

No. 20. Place or places, at which the money was at the respective times received.

No. 21. Person or persons, by whose hands respectively the money was received.

No. 22. Form or forms, in which the money was made over.

An additional topic this last, under which, as a preservative against fraud, particularization may have its use. In case of paper money at a discount, as in the instance of *currency* in a distant dependency,—without this particularization, in conjunction with that of the *time of payment*, the real value of the alleged equivalent will not be discernible. As to the word *sterling*, if there be any need of it or use in it, it will be for the purpose of distinguishing metallic money from currency as above. As for pounds Scots, there being no such money either in metal or paper, no actual payment can be made in it.

Note that, on every occasion, on which the money is sent by a public conveyance, the times of receipt may be different from the times of payment. So, when sent by a private hand.

II. DEED OF MORTGAGE.<sup>1</sup>*Author's Draught. (No Topics given.)*

## “ PROPOSED CHARGE OF A PRINCIPAL SUM WITH INTEREST.

“ *This Deed made the 1st day of April, 1927, Between An-*  
 “ *drew Allen of*                      *of the one, and Benedict Butler, of*  
 “ *of the other part, witnesseth, that in consideration of five hundred*  
 “ *pounds sterling by the said B. Butler to the said A. Allen, now*  
 “ *lent and paid, the said A. Allen doth charge all that messuage or*  
 “ *dwelling-house, with the outhouses and gardens thereto belonging;*  
 “ *also the three following parcels of land thereto adjoining and there-*  
 “ *with occupied, namely, Blackacre, being meadow, containing ten*  
 “ *acres; Greenacre, being pasture, containing four acres two roods;*  
 “ *and Whitacre, being arable, containing eight acres; All which*  
 “ *said premises are situate in the parish of Stoke, in the county of*  
 “ *Hereford, and are now in the occupation of Giles Hall, with the*  
 “ *appurtenances thereto belonging, with the payment to the said*  
 “ *B. Butler, of the sum of five hundred pounds, with interest at four*  
 “ *per cent. per annum as follows, viz., half a year's interest of the*  
 “ *same sum to be paid on the 1st day of October, now next ensuing,*  
 “ *and the said principal sum of five hundred pounds and another*  
 “ *half year's interest, <sup>2</sup> for the same to be paid on the 1st day of*  
 “ *April, which will be in the year 1928.*”

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*Notes on Author's Draught.*

<sup>1</sup> *Mortgage.] Mortgage is the denomination, by which, for the present purpose, I designate the sort of deed: this being the most important and obvious species of the genus for the designation of which our learned author has employed the word*



## II. DEED OF MORTGAGE.

ALLEN to BUTLER, *Ad.* 1927.*Reviewer's Draught (with Topics.)*

## I. PARTIES DESCRIBED.

No. 1. Pledger's name. *Andrew Allen.*No. 2. Pledger's condition. *Esquire.*No. 3. Pledger's habitation. County, *Shropshire*; Parish, *Weston*; Spot, *Allen Hall.*No. 4. Lender's name. *Benedict Butler.*No. 5. Lender's condition. *Butcher.*No. 6. Lender's habitation. County, *Shropshire*; Parish, *Weston.*

## II. SUBJECT-MATTER DESCRIBED.

No. 7. Subject-matter of pledge—its species. *A Farm.*No. 8. Subject-matter of pledge—its individual description.  
See Paper of Particulars hereto annexed, marked A,  
and signed by the parties.

## III. SUM LENT.

No. 9. Sum of Money lent. *Five hundred pounds.*No. 10. Species of Money in which paid. *Promissory Notes of  
the Bank of England.*

## IV. RATE OF INTEREST.

No. 11. Rate of interest. *Four pounds per year.*

## V. TIMES FOR PAYMENT.

No. 12. Day, for repayment of principal, unless respited, *April  
first, 1929.*No. 13. Days, for half-yearly payments of interest. *October  
first, 1928*; *April first, 1929*: so on, till repayment  
of principal.

## VI. TIME, PLACE, AND TOKENS OF AGREEMENT.

No. 14. Pledger's name in his hand-writing, in token of agree-  
ment, and receipt of the money. *Andrew Allen.*No. 15. Day, on which Pledger's name was written. *April first, 1927.*No. 16. Place, in which Pledger's name was written. *Pledger's House, Allen Hall, Weston,  
aforesaid.*No. 17. Lender's name, in his hand-writing, in token of agree-  
ment. *Benedict Butler.*No. 18. Day, on which Lender's name was written. *April first, 1927.*No. 19. Place, in which Lender's name was written. *Pledger's House, Allen Hall, Weston,  
aforesaid.*


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*charge.* Preferable however to *mortgage*—preferable in every point of view, and to a most important effect—would be *land-pledge*. *Mortgage* is understood by nobody; *land-pledge* would be understood by every body; by every body, male and female,

who has ever seen or heard what passes at a *pawnbroker's*. So much for name.

Behold now how much may depend upon a right name: behold the instruction that may be afforded by it. Give validity and currency to either of these forms—the Author's or the Reviewer's,—and there will be no more need of Equity suits, nor any more need of delay, where *land* is the pledge, than where a pair of ear-rings, worth the same money, or a table-spoon, is the pledge: and the present licenced depredation—in some circumstances, on the part of the lender, in others on the part of the borrower,—is at an end. What is it that should make the difference? Is not a sheet of paper as easily passed from hand to hand as a pair of ear-rings? As to difference, if any there be, it is all of it in favour of the *immoveable* pledge; for, the jewels may be run off with; the land can not. Secresy—in regard to *rents*—is *that* an object? for example, on the borrower's account, lest the state of his finances should be made known. More effectually can that be provided for in the case of the land, than in the case of the diamonds: the receiver of the rents, whoever he is, being supposed an object of confidence on both sides, the transfer is made to *him*: made to him, in trust, in case of payment on the appointed day, to deliver the money, or the land, to the one party; in case of non-payment, to the other. Here, too, as far as regards the *principal*, all danger vanishes: trustee can no more run away with the land, than borrower or lender could; and as to the *interest*, it is no more than what every man, who employs a steward, by so doing trusts him with.

Indulgence to debtors—is *that* an object? How much better could it not be afforded, how much likelier would it not be to be afforded—by a creditor who had *no* law-charges to apprehend, than by one who *has* law charges to apprehend—especially such as those which hang over his head at present?

Behold now the *extent* of the benefit which this theory, simple as it is, may be made productive of, if carried into practice: benefit to landlords in general; benefit to tenants in general; benefit to every body, but to those who are among every body's worst enemies, and who will be sufficiently known by that name. Where recovery of rents is the object, in so far as there is property enough of the tenant's, or any body else's upon the premises,—landlords—nor yet altogether without good reason—are by themselves trusted with the power of being themselves judges in their own cause. Well then—where recovery of possession is the object—pledges on the spot being wanting or insufficient—with how much less danger might they not be trusted with the power of being, to the effect in question, judges in the cause of others—meaning of course by others,

those with whom they have no connection? On this plan, in case of *appeal*—and in that case only—might those judicatories have cognizance, which at present have it *in the first instance*. Of the essentially and incurably corrupt, and in every respect unapt judicatory in question, my opinion is the same as that of the Morning Chronicle: but, so long as the people continue oppressed with it, I see much less danger from *this* power in its hand, than from most of that which is at present exercised by it.

As to the *species* of conveyances to which this system would be applicable,—the same principles which would give simplicity to *deeds* of sale, mortgage and settlement, would give correspondent simplicity to *leases*.

Turn now to the *gaming-table*. On a visit to it,—why, in that case, should not a noble lord, or honourable gentleman, put into his pocket a few papers of *sales, mortgages, or leases*, as well as the correspondent number of *rouleaus*? This is not a mere jest: for, if ruined, why might he not be so,—for the benefit of a set of companions of his own choice, with whom he was living on convivial terms, and in regard to whom, in conjunction with the chance of being ruined by them, he possessed an equal chance of enriching himself by their ruin, and from him might receive more or less of indulgence, why not as well for their benefit alone, as partly for their benefit, partly for the benefit of a set of lawyers, whom he knows nothing of,—from whom nothing is to be got,—and from whom, on his part, nothing but ruin, or a more or less near approach towards it, can be expected?

Lawyers, by whom, comparatively speaking, such facility has been left to *transfer*, in the case of *moveables*,—whence happens it that they have dealt on so opposite a footing by it in the case of *immoveables*? *Answer*, altogether simple. Society could not have held together, and the matter of legal plunderage would either never have come into existence, or, as fast as it had come, would have been swallowed up,—had they thus loaded it in the case of moveables; but, in the case of immoveables, the magnitude of the masses is such as renders it possible for them to bear the load. Sweet accordingly is the “*saveur of the realty*,” to learned noses.

<sup>2</sup> *Another half year's interest.*] But what, if that happens which most commonly does happen? What, if the loan is continued, as it sometimes is, for years by dozens, beyond the twelvemonth? For this case no provision is here made [See notes on the Reviewer's Draught]. In any case, on failure of payment, prompt is the remedy needed; and next to instantaneous is the remedy which, as above, the nature of the case affords; yes, and which would be afforded in fact, if those judicatories, which are *Law* and *Equity* Courts in name, were not *Iniquity* courts, if not in purpose, in effect.



## III. MARRIAGE SETTLEMENT DEED.

*Author's Draught. (No Topics given.)*

" A MARRIAGE SETTLEMENT OF REAL ESTATE, UNDER  
THE PROPOSED CODE.<sup>1</sup>

" *This Deed made the First day of April, 1926, Between Alfred*  
*Allen of*                      *of the one part, and Clara Campbell of*  
*of the other part, Witnesseth that in consideration of a Marriage*  
*agreed upon and about to be solemnized between the said A. Allen,*  
*and C. Campbell, he the said A. Allen, doth convey, charge, and*  
*settle, in the event of such marriage taking effect, and from and*  
*after the same, all and singular the Messuages, Cottages, Farms,*  
*and Lands, situate in the parish of Waring, in the county of*  
*Lincoln, comprised in the Schedule, to these presents, and therein*  
*particularly set forth by the names, quantities, qualities, situa-*  
*tions, occupiers, and other circumstances necessary for the dis-*  
*tinction thereof respectively, and all other, if any, the Messuages*  
*and Lands of or belonging to him the said A. Allen in the parish*  
*of Waring aforesaid, with the appurtenances thereto respectively*  
*belonging, and also all the impropriate tithes or tenths of corn,*  
*grain, and hay, and other great tithes or tenths whatsoever, and*  
*all moduses and other compositions for tithes or tenths yearly*  
*arising and payable from or in respect of all and singular the*  
*aforesaid lands and premises; to the person and persons respectively,*  
*With the several yearly and principal sums, and for the*  
*purposes following, viz., the said premises to stand and be*  
*charged with the clear yearly sum of two hundred pounds ster-*  
*ling to be paid to the said Clara Campbell, for her exclusive and*  
*inalienable enjoyment during the said intended intermarriage,*  
*and subject thereto, the premises to go to the said A. Allen, during*  
*his life, without impeachment of waste, and after his death, the*  
*said premises to stand charged with the clear yearly sum of five*  
*hundred pounds sterling, to be paid to the said Clara Campbell*  
*during her life in lieu of her legal interest in any lands to which*  
*the said A. Allen shall die entitled, and subject thereto, the said*

“ premises to stand and be charged with the sum of five thousand  
“ pounds as a provision for such child and children of the said in-  
“ tended marriage (except an eldest or only son, for the time being,  
“ entitled either absolutely or presumptively under the limitations  
“ next ensuing) and to vest and become payable at and in such time,  
“ or times and manner as hereinafter mentioned; and subject as  
“ aforesaid the said premises to go To such son of the said A. Allen,  
“ by the said C. Campbell, as shall first or alone attain the age of  
“ twenty-one years, or dying under that age shall leave issue of his  
“ body living or conceived at his death, and if there shall be no  
“ such son, then to all and every the daughter or daughters of the  
“ said A. Allen, by the said C. Campbell, who shall attain the age  
“ of twenty-one years, or dying under that age shall leave issue of  
“ her or their body or respective bodies, living at her or their death  
“ or respective deaths, in equal shares if more than one, and if  
“ there be but one such daughter, then the whole of the premises to  
“ that daughter. And if there shall be no child of the said in-  
“ tended marriage, who shall become absolutely entitled to the pre-  
“ mises under the limitations aforesaid, then the said premises to go  
“ and revert to the said A. Allen. And as to the said sum of five  
“ thousand pounds hereinbefore charged for the benefit of such child  
“ or children of the said intended marriage (not being an eldest or  
“ only son for the time being entitled either absolutely or presump-  
“ tively as aforesaid) as hereinafter mentioned, It is hereby declared  
“ that the same sum shall vest in and become payable to such  
“ child or children (except as aforesaid<sup>2</sup>), or else in any one or more  
“ exclusively of the other or others of them at such age or time or  
“ respective ages or times, in such manner and with such dispositions  
“ over, to, or for the benefit of the other or others of the same children  
“ or any of them, as the said A. Allen shall at any time or times after  
“ the said intended marriage direct or appoint, And  
“ for want of such direction or appointment, or so far as the same,  
“ if incomplete, may not extend, the said charge, or the unappointed  
“ part thereof, shall vest in and go to all and every the children

“ and child of the said intended marriage (other than an eldest  
“ or only son for the time being entitled as aforesaid) who shall  
“ attain the age of twenty-one years, or in the instance of a  
“ daughter or daughters shall marry under it, to be equally divided  
“ between such children if more than one, and if there shall be but  
“ one such child, then the whole of the said unappointed charge  
“ to vest in and go to such one child, and the same charge to be  
“ paid to such children or child respectively, at the same ages, or  
“ times, or age or time, if the same shall happen after the death  
“ of the said A. Allen. But if the same shall happen in his life-  
“ time, then immediately after his death, provided always that  
“ after the death of the said A. Allen, and in case he shall have  
“ made no direction to the contrary, it shall be lawful for the  
“ guardian or guardians of any infant child or children of the  
“ said intended marriage presumptively entitled to a portion or  
“ portions under the said charge, to levy and raise any part or parts  
“ not exceeding in the whole for any such child, a moiety of  
“ such his, her, or their then eventful portion or portions although  
“ the same shall not then have become vested, and to apply the  
“ money so to be raised for the preferment, advancement, or benefit  
“ of such child or children in such manner as such guardian or  
“ guardians shall in their or his discretion think fit, provided also  
“ that after the death of the said A. Allen, and in case he shall  
“ have made no direction to the contrary it shall be lawful for  
“ any such guardian or guardians as aforesaid, to levy and raise<sup>3</sup>  
“ and apply for the maintenance and education of such child  
“ or children for the time being of the said intended marriage,  
“ as shall be presumptively entitled to a portion or portions under  
“ the said charge, in the mean time and until such his, her, or their  
“ eventual portion or portions shall become vested, such yearly sum  
“ or sums of money not exceeding what the interest of the same  
“ portion or portions would amount to at the rate of four pounds per  
“ cent. per annum were he, she, or they then absolutely entitled  
“ thereto.”



III. MARRIAGE SETTLEMENT DEED, ALLEN *with*  
CAMPBELL, Ao. 1929.

*Reviewer's Draft (with Topics.)*

I. PARTIES DESCRIBED.

- No. 1. Intended husband's name. *Andrew Allen.*
- No. 2. Intended husband's condition. *Esquire.*
- No. 3. Intended husband's habitation. County, *Shropshire* ;  
Parish, *Weston* ; Spot, *Allen Hall.*
- No. 4. Intended wife's name. *Clara Campbell.*
- No. 5. Intended wife's condition. *Spinster.*
- No. 6. Intended wife's habitation. County, *Shropshire* ; Parish,  
*Weston* ; Spot, *Cross Street.*

II. SUBJECT-MATTER DESCRIBED.

- No. 7. Subject-matter of Settlement—its species. *Farms and*  
*Tithes.*
- No. 8. Subject-matter of Settlement—its individual description.  
See Paper of Particulars hereto annex, marked A, and  
signed by the parties.

III. PROVISION FOR INTENDED WIFE'S INTEREST DURING  
THE MARRIAGE.

- No. 9. During the Marriage, pin-money.<sup>1</sup> *Two Hundred*  
*Pounds per year.*
- No. 10. This provision is a rent charge, charged<sup>2</sup> upon the  
estate.
- No. 11. This rent charge is unalienable.<sup>3</sup>

IV. PROVISION FOR INTENDED HUSBAND DURING HIS LIFE.

- No. 12. Subject to this charge, the estate remains to *Andrew*  
*Allen* during his life.
- No. 13. He is not impeachable for waste.<sup>4</sup>

V. PROVISION FOR INTENDED WIFE IN CASE OF WIDOWHOOD.

- No. 14. On the death of intended husband, intended wife is  
to receive during life a jointure of *Five Hundred*  
*Pounds per year.*
- No. 15. This jointure is unalienable.
- No. 16. It is to be paid clear of all charges.
- No. 17. In consideration of it, she hereby gives up whatever  
provision she might otherwise have under the Code.<sup>5</sup>

VI. PROVISION AS TO DESCENDANTS WHO, SUBJECT TO THIS JOINTURE, ARE TO BECOME HEIRS TO THE ESTATE: SAY THE ESTATE-TAKERS.

*Cases in which the Estate descends undivided.*

No. 18. Case 1. At the father's death, a son alive: no nephew or niece of his, by any elder brother of his, alive: sisters or younger brothers of his alive or not in any number. To this son the estate passes undivided.

No. 19. Case 2. At the father's death, a daughter alive: no brother or sister of her's alive, nor any nephew or niece of her's, by any brother or sister of her's. To this daughter the estate passes undivided.

No. 20. Case 3. A son alive, daughters or younger sons alive or not: nephews or nieces of the son by an elder brother of his alive in any number. To the eldest of these nephews,—or, if there be but one, to the only nephew; or, if no nephew, to the niece, if but one, the estate passes undivided.

*Cases in which the Estate descends divided.*

No. 21. Case 4. No son alive: nor son, or daughter, by any son. Daughters, in any number more than one alive. To these daughters the estate passes in equal shares.

No. 22. Case 5. No son alive: a daughter or daughters alive: by a deceased sister of theirs, one niece of theirs alive. To the daughter or these daughters, with their niece, the estate passes in equal shares.

No. 23. Case 6. No son alive: a daughter or daughters alive: by a deceased sister of theirs, nieces two or more alive. Among the daughters and their nieces, the estate passes divided. But the shares of the daughters are, as above, equal as between each other: so are those of the nieces. But the nieces, in whatever number by one sister, take among them no other share than that which would have been their sister's had she been alive: so, if daughters more than one are all deceased, each leaving a daughter or daughters.

No. 24. Case 7, &c. Upon the same plan, the estate will be divided through any number of generations: the share of each mother passing entire to her daughter, if but one; in equal shares among her daughters, if more than one: whatever be the number of her daughters, to her son, if but one; if sons, more than one, to the eldest.

VII. MONEY PROVISION, FOR CHILDREN NOT TAKING PART IN THE ESTATE: SAY *THE MONEY-TAKERS*. APPORTIONER, THE FATHER. IN THIS PROVISION, NO CHILD, HAVING PART IN THE ESTATE, HAS ANY PART. HAVING THE WHOLE INCLUDES THE HAVING A PART.

No. 25. Sum total at his disposal, *Five Thousand Pounds*, charged on the estate, as per No. 10.

No. 26. Share of each, whatsoever he appoints: the whole, any part, or no part.\*

No. 27. By deed, he may bind himself to any such child or children, or to any person on behalf of any such child or children, to charge the estate with any sum not exceeding the total charge, as per No. 25.

No. 28. So likewise by last will, in so far as is consistent with what he has done by deed.

No. 29. No money, advanced, in his life-time, to, or for the benefit of, any such child, whether in the way of income, or in the way of capital,—will, unless by deed expressly so declared to be, be understood to be designed to be deducted out of the apportionment made as per Nos. 26, 27, 28.

No. 30. No charge, endeavoured to be made by him on the estate will have effect till after this settlement charge, as per No. 25, has been carried into effect.

No. 31. To the receipt of any share of the portion-money, he may annex all such conditions not prohibited by law, as he thinks fit.

No. 32. MAINTENANCE. For this purpose, upon the *principal* of any such child's portion he may pay, or direct to be paid,—to such child, or to any person on account of, such child,—*interest* at any rate mentioned by him, for any length of time up to full age or marriage; at which time the principal, or what remains of it, will be to be paid.

No. 33. For any payment, as per Nos. 26 or 32, he may assign any TIME he pleases.

No. 34. Of the portion-money obtained under this settlement,—whatsoever part, if any, remains undisposed of by the father, is to be divided among the children, and the descendants, if any, of the children, in equal

\* How many hundred thousand pounds, spent in misery-making litigation, for the benefit of Judge and, Co., would not a law to this effect, if enacted in time, have saved? Calculate from the cases alluded to by Mr. Humphreys.



portions, after the several manners mentioned in Nos. 21, 22, 23, 24.

VIII. SUBJECT TO FATHER'S DIRECTION, POWERS TO GUARDIAN, OF CHILDREN NOT HAVING PART IN THE ESTATE.

- No. 35. Out of the principal, he may employ, for the benefit of any such child in the way of *advancement*, any sum not exceeding the half of his or her portion.
- No. 36. So yearly for *maintenance* (*education* included) any sum not exceeding interest at four per cent upon the principal.
- No. 37. On the death of any such child before full age or marriage,—his or her portion, whatsoever part of it remains not disposed of, as per Nos. 35, 36, is to be paid to the surviving child, if one; to the surviving children, in equal portions, if more than one. Hence, before arrival at full age or marriage, the portion of any child may, by his or her own death, have been extinguished altogether, or by the death of others, augmented. But, in the allotments made of *advancement* money, as per No. 35, neither of those contingencies is to be taken into account. The sum, employable at all times for the benefit of each child, in both ways, is the whole, or the remainder, of the sum belonging to him or her on the day of the father's decease.<sup>6</sup>
- No. 38. For the times of payment in the several cases, and the mode of giving execution and effect to the several provisions, see the Code.
- No. 39. If, at intended husband's decease there be no child, or descendant of any child, alive,—the estate, subject to widow's jointure, as per No. 14, is at his disposal, and failing such disposal, passes to his heirs.<sup>7</sup>
- No. 40. Intended husband's name, in his hand-writing, in token of agreement. *Andrew Allen.*
- No. 41. Day, on which intended husband's name was written. *May first, 1929.*
- No. 42. Place, in which intended husband's name was written. *Weston, Shropshire.*
- No. 43. Intended wife's name, in her hand-writing, in token of agreement. *Clara Campbell.*
- No. 44. Day, on which intended wife's name was written. *May first, 1929.*
- No. 45. Place, in which intended wife's name was written. *Weston, Shropshire.*<sup>8</sup>

*Notes on Author's Draft.*

<sup>1</sup> *Proposed Code.*] Matter, which, for reasons above-mentioned, namely, in the Observations on the three Draughts taken together, is regarded as superfluous,—is, for distinction sake, here printed in black-letter. Owing however to the want of correspondency between the plan of the Author's and that of the Reviewer's draught,—a considerable quantity of matter, regarded as superfluous, is left undistinguished; as not being, without explanation, capable of being disentangled from needful matter. This, however, may, by any person to whom the restriction presents itself as being worth the trouble, be seen by a comparison between the two draughts.

<sup>2</sup> *Except as aforesaid.*] Three times the same exception—each, all three times, imbedded in the same sentence, and a different set of words employed each time for the expression of it. In the Reviewer's draught, this and every other instance of involvement is avoided. In his form of locution, an article, out of which an exception is taken, opens with the words, “*Exceptions excepted;*” and in the next article, next to the words “*Exceptions are as follow,*” or “*Exceptions are the following,*” come the Exceptions one after another, each for distinction preceded by a numerical figure. See *Official Aptitude Maximized: Expense Minimized*. On this, as on every such occasion, never is Mrs. Allen (late Miss Campbell), with her misfortune, in not having had the benefit of Mr. Peel's lawyer-making dinners, out of his sight.

<sup>3</sup> *Levy and raise.*] Doubts and solutions, the same in this case as in that of Mortgage; which see. If in *this* case both these correlative expressions are necessary, not less so were they in *that*.

*Notes on Reviewer's Draught.*

<sup>1</sup> *Pin-money.*] This word, and the succeeding word, *jointure*, are in the same case. Being the words in common use, and sure of being familiar to every person who is likely to become a party in a conveyance of the sort in question;—here, in a deed of which it so highly imports them to possess, on every occasion, an adequate conception,—here is a perfectly good reason why these terms *should* be employed; nor is there any why they should *not*. As to *pin-money*,—nobody, at the sight of this word, is in any danger of supposing, that the whole 200*l.* a-year is to be laid out in *pins*; any more than, at the sight of the word *spinster*, any body would suppose that the whole life of the lady had been occupied in *spinning*.

<sup>2</sup> *A rent charge.*] On this occasion, a question or two the Reviewer cannot avoid putting, in behalf of the future Mrs. Allen.

1. This same rent charge—from what *day* is it to be computed? from the day of her unhappy loss? from the quarter-day next before it, or from the quarter-day next after it?

2. By whose *hands* is it to be paid? on failure of payment, what is it that, to save herself from starving at the end of a few days, she is to do? At the end of a few years or so, Eldon & Co. are ready, in the way that every body knows, to supply her necessities, provided always that she has—what by the supposition she has not—money enough to satisfy their cravings, as per Note on the Mortgage Deed. Here then comes another demand for prompt judicature: for prompt *judicature*, even though it were not to end in *justice*.

To *some* of these questions, answer is given in the Author's Code, p. 262; reference to which is made for the present purpose, in a note to the Settlement Deed, p. 399. Not, however, to all; nor, in and from the Deed, is reference made to the document, to wit, the Code, in which an answer to them may be found. In the Reviewer's Draught, a supply, for this deficiency in the Deed, is provided: to wit, by reference made to the Code.

<sup>3</sup> *Inalienable.*] What does it mean? what ought it to mean? Inalienable to all purposes whatsoever, or with the exception of certain purposes? If with exceptions,—1. Inalienable for joint benefit by joint consent? 2. Inalienable for husband's benefit with wife's consent? Inalienable for wife's own benefit, at wife's desire? Inalienable for children's benefit, on joint desire, at husband's desire, at wife's desire, as above? 7. Inalienable at suit of creditors for payment of debts, contracted by husband or by wife?—Matters all these, presenting the same demand for discussion and decision somewhere, but against all which the author's *draught* shuts the door, by the all-comprehensive word *inalienable*. In the Code, by Article 22, under the security for freedom afforded by the wife's secret examination, he allows the alienation of the whole of the subsistence provided for her by general law during widowhood; also, any property derived by her during marriage from the bounty of a third person. But, is not the danger to her from fraud or improvident alienation incomparably less, in the case of *pin-money*, than in the case of *jointure*? in the case where superfluities alone are at stake with her husband's property as a resource for necessities, than in the case where necessities are at stake, and that resource is at an end?

Supposing, for any purpose, alienation *with her free consent*,



allowed,—in that case, for giving the allowance, the words *without her free consent* would suffice; but, for particulars, in that case, as in so many others, reference should be made from the Deed to the Code.

Rendering this pin-money—rendering the estate itself, alienable for any one or every one of these purposes—would this render the provision ineffectual altogether? not it, indeed: any more than establishing a general course of succession by law, failing ditto by deed or will, renders the power of transfer by deed or will ineffectual.

Now, as to alienation for payment of *debts*. Render the property inalienable altogether, you leave, exposed to the risk of disappointment by loss, one set of persons: render it alienable to this or that purpose, you leave, in like manner, exposed to the risk of disappointment by loss, another set of persons. *Query*: In which case is the evil greatest?

*Answer*:—Render it *inalienable* altogether,—to the number of persons thus exposed, there is no limit: for, all persons who, in the capacity of workmen, for example, or petty traders, have dealings with the parties, are included in it; and, among them there may be those, in whose instance, owing to difference in respect of income, the same nominal loss may be productive of a dozen, a score, a hundred, a thousand times the suffering produced in the instance of the parties to the marriage.

Render it *alienable* for the benefit of creditors,—the suffering is confined to the sometimes indeed blameless, and merely unfortunate, but most commonly imprudent, and thence culpable, parties; with the eventual addition of their children, whom, as well as themselves, they had it in such case in their power, by ordinary prudence, to have secured against such loss.

For other landed property of the same kind—for other landed property of a different kind—for property in any other shape—(Government annuities, for example, or Life Assurance Company annuities),—it may happen that, to the benefit of the parties, to an unlimited amount, an *exchange* might be made. Under a rational system of procedure, with a correspondent judiciary establishment,—all parties interested, whether on self-regarding account, or on account of sympathy towards the parties, being allowed to intervene,—exchanges of all sorts might, for these purposes, be made, by any sets of persons, with little or no expense. Even at present they are not unfrequently made. Yes; but by what authority? in what way?—instead of judicial authority, in the appropriate and apt way, by legislative authority, in an anomalous and unapt way: and at an expense which not one person out of several thousands is able to defray. And why

thus made? only that a set of placemen and lawyers may, on each occasion, share among them so many hundreds of pounds.

But, the beings who have as yet no existence—the children's children, one set after another, down to the world's end—these are the dear possible creatures, by whom, to the exclusion of so many existing and suffering ones, whatever sympathy has place in an aristocratical bosom, is engrossed: nor yet the whole number, but that half of it alone, whose merit and title will have consisted in the having received, from the hand of positive and ungrounded law, the *name* of their supposed male, in preference to that of their female, and thence more certain, progenitors; and it is for these same possible, that actually existing, human beings in unlimited number, are to be cheated, and to an unlimited amount, made sufferers.

If, during the existence of a form of government, by which the interest of all besides is sacrificed to the assumed conjunct interest of the one and the few,—it be on any account advisable to provide leading-strings to check aristocrats, in their individual capacity, in their propensity to run into ruin, the recent French institution of *majorats* would, perhaps, be the best adapted to the purpose: always understood that in England it be confined to *peerages*.

In this case, for the preservation—not, indeed, of the spend-thrifts themselves from ruining themselves, but of their relatives from suffering disappointments from them,—inalienability would be the sole and tolerably efficient remedy. But, for preservation of all persons besides from being cheated and made sufferers by them,—*registration* (of which presently) would be an indispensable and the sole remedy, though unhappily, as will be seen, never more than an imperfect one.

<sup>4</sup> *Without impeachment of waste.*] An odious locution this—relic of antique barbarism, altogether unfit for any honest purpose. In respect of morality, what a lesson! mischief under its own name expressly authorized by law! By this expression, when made use of, what is it that is really intended? That the estate should be wasted? No: only that, in a particular shape, a fair profit, adapted to the nature of that shape, should be reaped from it. The profit thus intended, what is it? profit from the sale of timber growing on the estate? This, then, is what should be said;—more demand here for reference to an appropriate section in the appropriate Code; a section having for its object the confining within limits beneficial to all interests concerned the profit derivable from this source. Is any other fractional right intended to be reserved out of the aggregate right of ownership? If so, in conjunction with the right of cutting and selling

timber, it should be designated by some adequately-comprehensive locution, such for instance as *life-holder's profit in the shape of capital*; with reference, for explanation, to the Codes.

In the Equity Books, to the head of waste, under the sub-head *permissive* waste for contradistinction from *positive*, is referred *omission to keep in repair*. Under its ordinary and specific name, in speaking of the correspondent obligation, mention should be made of it in the Code, and referred to in the Deed. Under both heads, matter proper for the Code will be found in those same Books.

<sup>5</sup> *Gives up.*] More demand for reference to the appropriate Code. The arrangement, which Mr. Humphreys, and with uncontested reason, proposes—is—that, in the Code,—to *dower*, with its uncertainties, be substituted—a provision as clear as may be of uncertainties. This supposed done,—thereupon will come a clause, giving legality to whatever arrangement may, in relation to this provision, be made in a marriage settlement; for, it is not for the legislator, to whom all individuals are alike unknown—it is not for him, on any such occasion, to take upon himself to force upon them an arrangement which does not suit the purpose of the only individuals interested. So far as their interests are alone concerned, and laying out of the question whatever interest the public at large may have in the matter,—what belongs to him is neither more nor less than to provide against *fraud*, *accident*, and on their part *inadvertence*; and, for these purposes alone, to establish such all-comprehensive arrangement as presents a prospect of being well adapted in a greater number of instances than any other all-comprehensive arrangement that the case admits of. But, this supposed done,—here, in the tenor of the Code, would come the necessity of a subsidiary arrangement, having for its object the securing to the *widow*, at all events, and at every point of time, one or other of the two alternative provisions: to wit, *that* under the general rule, and *that* under the particular rule agreed upon, and laid down in the settlement. Employ the *summary* plan, as per the note to the Mortgage Deed, this security is established: deny it, you deny justice, and leave the afflicted female in the condition expressed by the proverb of the *two stools*.

<sup>6</sup> *Heirs.*] HEIRS (*coheiresses* included). Inserted here of necessity, and in want of a better, is this word, which none but lawyers can understand; better, a word such as *successors*, which those, whose property is at their disposal, may understand. That which, for this and all other occasions, is wanted, is—a term which shall apply to property at large, *whichever be the subject-matter*—to wit, *immoveable or moveable*—or (what in



law-jargon comes nearest to that expression), say *real* or *personal*; to which will require to be added *incorporael*; so, whichever be the mode of derivation from such its source: to wit, whether simple and immediate, as in the case of *genealogical* succession, or unimmediate, and with the intervention of individual will, as in the case of *transfer*, whether by *deed* or *last will*; a desideratum this, which may and should be provided for us, instead of our being sent for a meaning to the obscure history of a barbarous state of society, altogether different from the present. This desirable term is presented by the word *successors*: this then, if found apt for the purpose, is the word that will naturally be employed, should ever a rule of action be provided, which it is intended that those whose actions are to be determined by it, should have the possibility of understanding. On the present occasion, the distinction might, in that case, be expressed by some such words as *land-taking successors* and *money-taking successors*. *Heirs* should, in that case, be, in all its applications, eliminated out of the Code, and abandoned to the Society of Antiquaries.

<sup>7</sup> *Father's decease.*] When arrived at this point, not inconsiderable (it cannot but be acknowledged) would of course be the perplexity of Miss Campbell, if she regarded herself as being under the obligation of obtaining any particular as well as clear conception of the contents. But to no such painful obligation will the lady regard herself as subjected:—so small will be the probability,—and at any rate so great the distance,—of such a state of things, to an imagination occupied by the idea of near approaching happiness: and, should the desire ever come upon her, of seeing—in what way, in any proposed state of things, the division may come to be made—(a desire not likely to arise till she has marriageable children), there in one of her drawers lie the means of satisfying it.

Miss Campbell throughout—Miss Campbell is the chief object of my care. And why? Even because—whatsoever is either not understood or misunderstood, is in proportion mischievous; mischievous, in the joint proportion of the importance of the matter, and the number of persons interested, from whose minds the true import is in either way excluded. For, from non-understoodness or misunderstoodness comes oppositeness to expectation; from oppositeness to expectation, disappointment; from disappointment, suffering, in proportion to the importance of the consequences.

As to lawyers,—as, in respect of honour as well as profit, it is their interest, so of course is it their desire and endeavour, that the rule of action, more especially in matters of property, be

understood by as few, and to that end be as unintelligible, as possible. As for what the rest of the community suffer from this state of things, this is what scarce one in a thousand ever thinks about. As it is with wolves, so is it with lawyers; what sympathy they have, if any, it is sympathy for their own kind, all of it; for their prey, none of it.

Thence comes, in the arrangements themselves, that complicatedness, by which so much complicatedness in the expression given to them is necessitated. Complicated is the description of those persons who, separately or collectively, are to be in the possession of the estate. Correspondently complicated accordingly is the description of those who are not to have any part in the estate. What simplicity of description there is in the case is confined to this, namely, that whoever has the whole of, or any part in, the estate, has not any part in the money; and that whoever has the whole of or any part in the money, has not, at that same time, the whole of, or any part in the estate, unless by the death of some anterior taker of it.

<sup>a</sup> *Weston, Shropshire.*] Between wordiness and sufficiency some difference, it is hoped, will now have been seen exemplified:—every superfluous word is an additional cloud. Of wordiness, in the degree in which it is exemplified by English law practice, so far from sufficiency, deficiency is the result. For, on this or that occasion, such is the quantity of the heap of particulars inserted, that the draughtsman is not able to bear the whole list continually in mind: the consequence is,—that on this or that other occasion, though exactly parallel to it, and calling for exactly the same list,—some of them are omitted, or others added or substituted: whereupon, in argument, the difference, in legislative or professional expression, is, of course, made use of as a ground for difference in judicial decision. Of this sort of style,—expensiveness and uncertainty, with the profit from both, were the manifest *final causes*, and never were ends more abundantly accomplished.

Now as to *Registration*. Uses, as applied to instruments of conveyance and contract relating to property in immoveables, these—

1. Preservation of these documentary evidences from loss and destruction.

2. Preservation of them from falsification.

3. Exclusion of corresponding counterfeit documents.

4. In so far as the document is proof, of incumbrance applying to the property of the possessor of the estate, in relation to which the document registered operates as evidence of title,—affording,

to all persons disposed to give him credit for money or money's worth, the means of guarding themselves against loss by insolvency on his part.

5. Affording, by means of the aggregate of the evidence thus preserved and rendered susceptible of appropriate publication,—information of the *statistical* kind, capable of being turned to account by government for the benefit of the public in a variety of ways.

Of these five good effects,—the first gives security to the owner of the estate, against accident; the second and third, against fraud and depredation, at his expense, on the part of the rest of mankind; the fourth, to the rest of mankind against fraud on *his* part; the fifth contributes to form a basis for the exercise of the legislative and administrative functions.

Alive to the importance of this means of security,—Mr. Humphreys, taking it up upon its present footing, affords for the improvement of it a quantity of highly valuable matter, as to which I must content myself with referring the reader to his work. I promised him *a treat*; I now fulfil that promise; such if it be to him, such will the invention I have to present to view be to every reader, in proportion as in his eyes security, to a degree beyond every thing that as yet has been experienced, or can have been so much as anticipated, is an object of regard. By it, if narrow and sinister interest in powerful breasts can but be induced to permit the employment of it—by it, will preservation and appropriate publication be given to documentary evidence, to whatever purpose needed: preservation, and what is of correspondent importance, equally unexampled cheapness. It is an invention of which I can speak my admiration the more freely, as not having in my own person any part in it.

For the description of it, and in a more particular manner, of its uses,—I have but to transcribe a passage of an about-to-be published proposed Constitutional Code, ch. VIII. PRIME MINISTER. § 10 *Registration System*.

“Art. 1. For the more commodious, correct, prompt, uniform, and all-comprehensive performance, of the process and function of Registration in all the several departments and sub-departments—as likewise on the part of the Prime Minister, for the correspondent receipt by him of all documents, the receipt, and, as occasion calls, the perusal of which may be necessary to the most apt exercise of the several functions belonging to his own office—he will, as soon as may be, cause to be established, and employed in practice, in the several offices of the several depart-



ments and their Sub-departments, the Sub-legislative included, the mode of writing styled the *Manifold* mode.\*

“Art. 2. Particular uses of the manifold mode of writing are as follows :

“By the multitude of exemplars, produced at an expense which, with the exception of that of the paper, is less than the expense of two in the ordinary mode, it affords means for furnishing, at that small expense, to parties on both sides, for

\* “MANIFOLD WRITING.—1. *Mode of Execution.*

“In the *manifold way*, the mode of writing is as follows:—

“Instead of a pen, a style, of the hardest and strongest metal, without ink, is employed. Under the style, as under a pen, are laid, one under another, in number the same as that of the exemplars required, sheets of appropriate thin *paper*, alternating with the correspondent number of thin sheets of *silk*, into each of which has been worked all over some of the black matter used in printing, and called *printer's ink*. In this way, by one and the same course taken, at one and the same time by the style, may exemplars be produced, in any number not exceeding twelve, with not much more expense of time and labour, than is commonly employed in the production of a single exemplar by pen and ink. Eight exemplars at once, all of them perfectly legible, have thus been habitually produced. In London this mode of writing has for about twenty years been regularly applied to the purpose of conveying simultaneous information to a number of newspapers. To other purposes it has also been employed under the eye of the author of this work.

“For the performance of the operation, the stronger the hand the better.

“To perform in perfection requires some practice in addition to that which has been applied to the art of writing with pen and ink.

“If there be a difference in the exemplars, that which is furthest from the style, not that which is the nearest, gives the most perfect and clearest impression.

“*Silk*, when a good deal worn, answers much better than when new.

“Supposing this mode of writing employed to any considerable extent, the silk would require to be smoothed by some appropriate means; for example, by being passed through rollers.

“The *thinner* the silk the better. That which has been mostly employed is that which, in English, is called *sarsenet*.

“As to the paper, that which is at present employed is called fine single crown tissue paper: price 19s. 6d. per bundle, containing two reams.

“In strength, by reason of its thinness, it cannot be expected to be altogether equal to what is most commonly in use in England; nor in whiteness, nor thence in respect of beauty and legibility are all the exemplars, by reason of the oil, which is an indispensable ingredient. They are nevertheless perfectly apt for these its intended purposes. No more than half of the number wanted need be, or ought to be taken on the oiled paper; to wit, every other one; the paper of the others will remain in primitive whiteness, except a slight extravasation of the oil of the ink round the edges of the letters. The effect might even be produced by a single oiled paper; to wit, the one to which the style is immediately applied. But in this case the labour necessary to produce the effect will be greater.”

themselves and assistants, all such documents as they can stand in need of.

“Art. 3. Every exemplar being, to an iota, exactly and necessarily the same as every other, the expense of revision by skilled labour is thereby saved, as well as *unintentional aberration* rendered impossible.

“Art. 4. An exemplar, kept in the Registrar's office, will serve as a standard, whereby a security will be afforded against all *intentional* falsification, on the part of the possessor of any other exemplar.

“Art. 5. By the reduction thus effected in the expense of all judicial writings emanating from the judicatory,—the protection afforded by judication in its best form,—to wit, that which has for its ground orally elicited and immediately minuted evidence,—will be brought within the reach of a vast proportion of the whole number of the people, to whom it could not otherwise be afforded.

“Art. 6. A collateral benefit—a degree of security hitherto unexampled against *destruction* of judicial documents, by *calamity* or *delinquency*—may thus be afforded, by the lodging of exemplars in divers offices in which they would be requisite for other purposes : exemplars of documents from the Immediate Judicatories being, at the Appellate Judicatory, requisite for the exercise of its judicial functions ; and, in the office of Justice-Minister, for the exercise of his *inspective* and *melioration-suggestive* functions.

“Art. 7. To save the expense of custody, and prevent the useful from being drowned in the mass of useless matter,—the Legislature will make arrangements for the periodical destruction or elimination of such as shall appear useless : care being at all times taken, for the preservation of all such as can continue to be of use, either eventually for a judicial purpose, or for the exercise of the *statistic* and *melioration-suggestive* functions, as per ch. ix. § 11, MINISTERS COLLECTIVELY : ch. xi. MINISTERS SEVERALLY, § 2, *Legislative Minister* : and ch. xii. JUDICIARY COLLECTIVELY, § 19, *Judge's contested-interpretation-reporting function* : § 20, *Judge's eventually-emendative function* : § 21, *Judge's sistitive or execution-staying function* : § 22, *Judge's pre-interpretative function* : § 23, *Judge's non-contestational-evidence-elicitative function*.”

Here, then, of every such conveyance,—without any addition to the expense, the trifling expense of the paper excepted,—we have no fewer than *eight* copies, and upon occasion as far as *twelve*, no one differing in a single tittle from any other ; and

this identity effected, without a particle of that skilled labour, the purchase of which, on the present plan, can never fail to be so seriously expensive. On this plan, unless it were for concealment of particulars, no need would there be for any such inadequate representative of the original, as that which, under the name of a *Memorial*, is employed in present practice.

To each one of the parties, how numerous so ever, an exemplar would be given of course. To obviate the case,—at present so pregnant, not only with delay, vexation, and expense, but even with loss of estate, for want of a producible title,—as many exemplars might be had by one party, as there were distinguishable parcels, which he might anticipate an occasion for making disposition of. So, when it happens that one estate, disposed of, the whole of it, by one and the same instrument, is situated in the territories of Registration Offices more than one,—so many of these Offices as there are, so many exemplars may there be. And finally, if, whether for ulterior security against accidents, or for all-comprehensive government purposes, it were found desirable that, for the whole territory of the State there should be one *General Office*, in which an aggregate of the documents received into the several *local Offices* should be kept—here is an additional accommodation, that might be afforded with a comparatively inconsiderable addition to the expense.

For, the documents being thus distributed, every syllable of each would thus be made secure—not only against depuration by accidents, but against all possibility of falsification. For, suppose, for example, one of the parties dishonest, and disposed to commit this crime, what possibility of a successful issue could he contemplate? In his own exemplar he makes the requisite alteration: but what can it avail him, when, in case of the slightest degree of suspicion, there lie, in the custody of a public functionary, as well as in that of each of the several parties, so many exemplars, to which, for any such purpose as falsification, all access on his part is perfectly hopeless.

For the application of the registration system to the case of dispositions made of property, the appropriate course might be this: adequately-registered estates, all of them, to the extent allowed by law, secured against eventual as well as against actual alienation: secured against it, *no estates not so registered*. A *charge* is an efficient cause of eventual alienation: considered in respect of the subject-matter it applies to, a *charge* may be termed *general*, or say *generally-applying*, or *all-comprehensively applying*, when it applies to the *whole* of the property belonging to the *charger*, as in the case of a *judgment* or a *recogni-*



*zance; specially applying*, when it is only to one particular parcel of his property, and that expressly mentioned in it, that it applies: as in the case of a *mortgage*, or a *marriage settlement*.

The misfortune is that, be the registration and publication system ever so perfect, no lender of a comparatively small sum,—no person supplying goods or labour to a comparatively small value,—can have in his mind at all times a sufficiently correct conception of the solvency of the landholder whom he serves: the consequence is,—that every estate non-alienable for debt, is a ready source,—and, at the pleasure of the owner, an instrument, of fraud. But, so long as the fraud is protected and encouraged by law, the impossibility, of doing every thing, that ought to be done, affords not any reason why as much as can be done should not be done; but, on the contrary, it affords a reason why as much as can be done *should* be done. True it is, that against loss, in comparatively small masses,—or against loss out of *income*,—small, as above, will be the security thus afforded: but, against loss in large masses; against loss out of capital; against the too frequently happening total losses of capital;—it would, in a tolerable degree, be effectual. Under “matchless constitution,” it is true, no regard for the bulk of the community can rationally be expected: but, for the class to which the rulers themselves belong, more or less regard may be expected on the part of each: and the greater the number to which, to whatever classes belonging, the benefit can be made to extend, the more fully will the wishes of a well-wisher to all alike, be accomplished.

My learned master, I observe, makes much and good use of French law; but he seems not to be aware of the pattern of good management afforded by that law in this part of the field.

Under matchless constitution, interest being throughout the whole at daggers drawn with duty,—in this case in particular, the same individual being concerned in conveyances and in suits, the right hand adds to its other occupations that of making business for the left. Thus, under English-bred law: not so under Rome-bred law: in particular, in France. There, the class of *Notaries* is a class altogether distinct from that of other lawyers. In that country, the other professional classes cannot indeed but be more or less deeply tinged with the vices inherent in the profession: howsoever less deeply than *here*, where, in every part of it, the whole chaos—substantive law, procedure law, and judicial establishment—has with such matchless skill and success been adapted to the purpose of unpunishable depredation. But, in the Notary class, on the contrary, to such a degree of intimacy is brought, in that instance, the connexion

between interest and duty—in the Notary class, may be seen an example of a degree of integrity, scarcely to be matched in any other profit-seeking occupation whatsoever; accordingly, in that, above all others, may be seen an object of universal confidence. Hands altogether pure from the waters of strife, the Notary adds to the trust of the Conveyancer that of the Banker: but with this difference—that it is only during short intervals that the money remains in his hands; those intervals, to wit, in which such custody is requisite for the purpose of the negotiation; and that, during those same intervals, he *keeps* the money without *lending* it.

Out of this state of things sprung just now an individual occurrence, more forcibly probative than can commonly be afforded of the truth of a general allegation. In France, the Notaries form a sort of body corporate. In Paris, an individual of this profession went off, t'other day, with the value of about two or three thousand pounds sterling destined for a purchase. Scarcely had any such act of delinquency been remembered: a commotion, like an electric shock, went through the whole body: on recovery, they made up a common purse, and replaced the loss. In England, Ireland, Scotland (for in Scotland this institution of Rome-bred law has not, to any considerable extent, if at all, been adopted)—in these countries, Diogenes, with his lantern, might trudge on till the last drop of his oil was spent, ere he found the object of his search: in France, where they exist by thousands, he would save his oil, and the labour of laying a trap for his joke.

A propos of Notaries. I will take the liberty of suggesting to my learned master, the adding to his French-law library the standard book on the subject, *Le Parfait Notaire, &c. par A. J. Massé*, 3 volumes 4to. *Paris*, 1825, *cinquième édition*; the precedents in it he would find of a very different complexion from those which have given him so much trouble: much superior in aptitude to those in the Scotch law-book, intituled, *The Office of a Notary-Public*: in my copy, 4th edition, 1792.

Notaries being on the carpet, a word I must put in, in favour of an humble class of late years brought into notice. *Poor Man's Notaries* they may be styled, or *Poor Notaries*, or *Pure Notaries*: *Pure Notaries*, in contradistinction to *Attorney Notaries*, as *Pure Surgeons*, as by some styled, in contradistinction to *Apothecary Surgeons*. But *Pure* my notaries may be styled in an additional sense—in the moral sense: pure from the sinister interest which the Attorney Notary and the Barrister Notary have, in making, with the instruments in question, work for themselves in the field of litigation. They are for the

most part (it is said) country *School-masters*. These, the attorney notaries, have, as is natural, been, for some time labouring to put out of their way. Petitions for this purpose have for years been coming in. Alleged grounds—of course, relative inaptitude of these intruders: alleged consequences—immediate inaptitude, in all imaginable forms, on the part of their instruments; ultimately, increase of litigation on the part of their employers. But, if these same alleged, were the real, ultimate consequence,—with no such petitions would Honourable table be encumbered. So says *evidentia rei*. Now as to evidence *ab extrâ*. That, of the alleged inaptitude, by due search the country over, a body of evidence, larger than could be wished, might be found—the present state of the law is, of itself, sufficient to render but too probable: evidence, of the satisfactoriness of which to an appropriate Committee, under the guidance of learned gentlemen, no great doubt need be entertained. But, as in other cases, so in this,—from *positive* inaptitude no conclusion can be drawn, capable of affording a sufficient warrant for the desired practical result, unless it be also *comparative*. Unfortunately for the unlearned clients of the unlearned advocate,—on this ground likewise, learned gentlemen are prepared to ride triumphant. Of law-learnedness in this and the higher grade together, tests over and over again established, approved, and incontestably and exclusively probative, two:—the *financial*, and the *convivial*, or say *manducatory*. Financial: Clerkship Articles duty 120*l.*; admission duty, 25*l.*; total, on capital 145*l.*; add, on income, 8*l.* Tests preferred by Mr. Chancellor of the Exchequer, presumably the *financial*; by Mr. Secretary Peel, declaredly the *convivial*; by their humble servant, the *examinational*.

Be this as it may, for clearing away every shadow of objection on the ground of want of intellectual aptitude,—nothing is wanting but the proposed appropriate Code, with an Appendix composed of the proposed authorized instruments, adapted to the purpose by the brevity and intelligibility above exemplified. This boon granted, better qualified for the business would be the least learned country school-master, than, under the reign of the present Chaos, the most learned of learned gentlemen can be. In this comparatively halcyon state of things,—in matters of small concern, the instruments of Sale and Mortgage, together with ordinary Leases, Wills of personal property, and the most ordinary species of Contract, such as Apprenticeship articles, Hirings, &c., would remain to the humble class of Notaries; Family Settlements and Wills of land, to the elevated class. Even thus the business of the unlearned class would



naturally be mostly confined within the field marked out by the ready prepared and authorized blank forms : while, for any thing *special*, recourse would be had, by those who could afford it, to the learned class. As to *examination*,—plans, applicable to this as well as higher purposes, will, before the meeting of Parliament, be at every body's command : title of the work, "Official Aptitude Maximized ; Expense Minimized."

Before registration is done with, one word as to the means of *enforcement*. Speaking of the instrument,—in case of non-observance of enactments, "*utterly void*," says page 312. Nor is this (it is feared) the only page. Observe now the effects. In every case, client sinned against ; lawyer the sinner : client punished ; lawyer unpunished. In the present case, note the situation in which the client is placed. Under the name of a *Memorial*, an instrument, containing matter under no fewer than eight specified heads, is required to be drawn up "in the form or to the effect of" a certain Article (Art. 101.) . . . "but with any alterations or additions which the nature of the case may require : *otherwise*," that is to say if, by the draughtsman, in respect of any one of these particulars, any thing is done which, by an Equity Judge, may be pronounced not to be to that same effect"—"every such deed" (it is said) "shall be *utterly void*." Now, then, as to the effects. Frequently, in the shape of capital, is the whole property of the purchaser of an estate embarked in the purchase : not to speak of the cases where, the purchase money being more than his all, a part of it remains charged on the estate, after the estate has passed into his hands. Think what, with a trap of this sort set for him, the hapless non-lawyer has to do, to save himself from it. At his peril he must turn lawyer : do, what by the supposition he is unable to do : for, if able, no need would he have for the professional assistance. But, in this case, an *indemnity* is provided for him : return of his money. Indemnity ? Oh yes. Source of it a few years of Equity suit, against the perhaps ruined man, by whose indigence most commonly the sale was produced. Lawyer ruins client, loses not a sixpence, and perhaps gets for himself a new suit. For, every where so it is—as in procedure, so in conveyancing ; making flaw in draught, makes more business for draughtsman. But reputation ? Oh, as to this, small here is the risk : *known uncertainty* of the law offers its ready cover to all learned sins. Thus, while in the shape of *pain of nullity*, *punishment* is in appearance employed in the *prevention* of the mischief, *reward* is in reality employed in the *augmentation* of it. Punishment ? Yes : and what punishment ? punishment, the evil of which rivalises with those which are inflicted for the most

mischievous crimes. Not unfrequently, sooner than subject himself to any such forfeiture, the defendant—simple debtor or criminal—has been known to embrace imprisonment for life.

Then as to *time*. Thirty days fixed inexorably for all cases. But who shall reckon up all the accidents, by any of which, without a particle of blame to the purchaser, performance of what is required, within that time, may be prevented? Day reckoned from, “the date of the deed :”—a day hereby *supposed* to be, in all cases one and the same for all parties: but how often, the act in question is of necessity the work of different days, has been seen above.

One instance more, page 185. Transgression, misapplication of any one of the three obscurified terms—*trust*, *use*, and confidence: penalty, here too expressed by the words “*utterly void*,” applied to the “assurances,” whatever they may be. Sin here, in every case exclusively the lawyer’s: client altogether incapable of ever committing it. Author’s design, in this case as in all others, meritorious. But, mode of execution how unfortunate!

Conveyances and contracts, which it is the intention of the law should *not take effect*—yes, to these, it is true, the effect indicated by the words *void* and *nullity*, and their *conjugates* and *quasi-conjugates* cannot but be attached. But then these cases ought to be, as without difficulty they might be, made known to all clients: known, by being particularized in the Code; and every lawyer, participating in the formation of such forbidden arrangements, might and should be, made *punitively* and *compensationally* responsible.

As to our Reformist,—in extenuation, with but too much truth, may he plead on this occasion universal practice. But, the dereliction of it is one which he will see the necessity of adding to the list of his so highly-needed innovations. Great, indeed, is the progress he has made, in the shaking off the shackles of habit—result of interest-begotten and authority-begotten prejudice: one effort more, however, the present case demands at his hands.

But, what reasonable expectation can you have (it may be asked) of seeing the force of law given to a means of security so galling to the feelings of those on whom the giving that force to it depends? especially if there be any approach to truth in what is said of the proportionable number of those, the nakedness of whose property would, by such an instrument of exposure, be uncovered? *Answer*. In the very modesty alluded to, as a certain cause of defeat, I descry a source of success. In nothing but the fear of such exposure could any

man find any motive for opposition. On the bringing in the bill, it might, without difficulty, be sufficiently made known, that the Noes will, all of them, be carefully noted down, and rendered universally notorious. In the instance of each opponent, that which would, in this way, be made universally known is—that, by a difference, the amount of which was matter of shame or uneasiness to him, his actual property wanted more or less of being equal to his supposed property: all that would remain concealed would be—the exact amount. But to any man—to what purpose can such concealment be desirable? Two distinguishable ones alone have any application to the case: obtaining money on a false pretence of solvency; or obtaining respect on a false appearance of opulence: cheating creditors alone; or cheating *them* and every body else.

Now as to *machinery*. In his haste to arrive at the essentials of his plan, our Reformist seems, on this occasion, to have taken up for his support, without sufficient examination, a broken reed of authority; and the consequence is—a choice such as will be seen. No objection, however, does this oversight make to the essentials: for, other machinery (it will also be seen) the case furnishes:—machinery also in use—machinery simple, well constructed, and adequate.

Sets of Commissioners (so say his “Preliminary Enactments”), at least two; all of them (it is presumed) ambulatory. Annual expense, what? Amount not less than 624,000*l.* a-year;\* duration, of course as long as said Commissioners can contrive to render it. Then comes the *Retired Allowance System*, and to *years* substitutes *life*. For justice, for security for the whole landed property of the kingdom, no such sum could be spared.

\* Counties in England (Wales included) 52: in each, sets of Commissioners two; one for enfranchisement of copyholds, the other for partition of lands, freehold and copyhold; all (it is presumed) circumambulatory; together, 104. Number in each set, at least three; total 312. Of each set, clerical suite and et cæteras included, annual expense, say in round numbers 6,000*l.*; (charge for expense of commission for inquiry into the State of Instruction in Ireland, was 7,000*l.*; ditto for ditto into the Revenue of Ireland, 5,675*l.*) First commissioner, say 2,000*l.*; puisnes, 1,000*l.* each, (Mr. Peel, if they knew how to eat and drink, would, upon proof from Lincoln's Inn or the Temple, give them twice as much). If, at a few years' end, they had performed their business—all well, or all ill, or all well and ill at the same time, or some well and some ill,—he would, unless he has repented, add to their salaries, whatsoever they were, a third more. Nominees, of course, the persons most interested in maximizing abuses and indemnities: lord Eldon, with or without the assistance of lord Melville and Mr. Wallace, would take care of the abuses; Mr. Peel, unless he repents, of the indemnities.



Royal amateurs want it for *Palaces*; lord Liverpool, for *Churches*.

So much for the complicated, the slow-working, the expensive, machinery. Behold now the simple, the quick-working, the unexpensive. Precedents six; latest dates of each as follows. Poor Returns; first accessible batch, A° 1787; (a prior one of 1777, not accessible); second batch, 1804; third, and last batch, 1818. Population Returns; first batch, A° 1812; second, and last batch, 1822. Scotch Education Returns, 1826.

Mode of eliciting the information,—Author's the *oral*; Reviewer's the *epistolary*. For judiciary purposes, for general purposes,—incomparably the best mode, confessedly the oral; the epistolary being but a make-shift—to save delay, vexation and expense on the part of examinees; for the particular purpose here in question, probable delay being much less; vexation of examinees much less; expense next to 0.

Number of elicitors;—upon Author's plan, as above, 312; upon Reviewer's plan, one. Mr. Rickman, whose appropriate aptitude shines with so steady a lustre in the Population Returns, is at his post. House of Commons Clerk finds labour; Honourable House, authority and auspices; Mr. Freeling, with his mails, conveyance.

*Time*, occupied before the information is completed—on Author's plan, what has been seen: on Reviewer's plan, as follows. Poor Returns in the case of batch the first, time not apparent; Poor Returns, batch the second, date of the latest matter, 12th April 1803; date of order for printing, 10th July, 1804. Interval, months 15,—Poor Returns: batch third and last,—date of latest matter, last day of 1815; date of order for printing, 3rd March, 1818; date of order for elicitation not ascertainable, without a search, the result of which would not pay for time and labour.—Population Returns, batch the first,—day appointed for the commencement of the operation in the parishes, 22nd May, 1811. Month, in which the Digest of them was delivered in, June, 1812, as per signature, *John Rickman*; interval occupied in collecting and digesting, not more than 13 months.—Population Returns, batch the second,—Year appointed for the commencement of the inquiry, 1811; day and month not apparent; month in which Digest was delivered in, June 1822: presumable interval, occupied in collecting and digesting,—as before, 13 months.—Lastly, Scotch Education Returns,—Date of the House of Commons' Resolution in which they originated, 30th March, 1825; date of Under Secretary of State's letter to the Lord Advocate in consequence, the very next day—31st March, 1825;

date of letter from Lord Advocate, sending the first part of the whole of the information—14th February 1826. Number of pages in the printed copy, 985: interval thus employed in collecting, not more than ten and a half months: within which time was performed a *vibrating* system of correspondence, composed of divers vibrations—letters written backwards and forwards.

In the case in question,—would any greater length of time be necessary? any grounds for any apprehension to that effect, can they be assigned? None whatever. Places constituting the local objects of inquiry and sources of information,—in those cases the *parishes*; in these, the *manors*. Reluctance, as to the communicating the information,—in any greater degree probable in this case than in those? No; nor yet so much. In those cases, indemnities being out of the question, nothing was to be got by furnishing the information, nothing to be lost by not furnishing. On the present occasion, more or less may in general be lost, by omitting to furnish the information; more or less perhaps to be got by furnishing it; for, to each individual from whom the information would be required, the consequence of omission would be, that his interest would be disposed of, and in case of loss on his part, no indemnity would he receive.

*Il ne faut pas multiplier les êtres sans nécessité*, says a well-known French proverb: and, of all multiplicable beings,—among those in whose instance the practice of that rule of arithmetic is most mischievous, are locusts.

As to our author's machinery for Registration and other purposes,—his *Quarter-sessions Chairman* and his *Clerk of the Peace*—still more egregiously unapt is it for this than for its present purposes. But, to his plan, this inaptitude forms no objection: only for elucidation (so he expressly declares), only for elucidation, does he bring it on the carpet. No fault is it of Mr. Humphreys, if, in the whole establishment, there is not a single judicatory that is in any tolerable degree fit for any other purpose than those for which, under matchless constitution, all judicatories, with but here and there an exception, have been invented—putting power into the hands, and other people's money into the pockets, of the inventors. A machinery adapted to his purposes—a *Judiciary Establishment*, with a correspondent *Procedure Code*,—each of them the first that ever really had for its sole object the giving execution and effect, with the minimum of daily vexation and expense, to the enactments of the substantive branch of the law,—is in progress; and the Judiciary Establishment plan will be in the printer's hands within a few weeks after the present pages are out of them.

Before concluding, I will take the liberty of suggesting, for his consideration, as briefly as possible, a few supposed improvements, of which his plan presents itself to me as susceptible: to do whatsoever else may be in my power, towards lightening his labour, and promoting his generous designs, would be a sincere pleasure to me. If, for the most part, these same suggestions should be found to apply to every other part of the field of law, as well as to the part on which his beneficent labours have been more particularly employed,—they will not, on that account, be the less excusable.

Distinguishable shapes, which the matter of a proposed Code may, throughout the whole texture of it, have occasion to assume, five: the *enactive*, the *expositive*, the *rationative*, the *instructional*, the *exemplificative*. Of the exemplifications of them exhibited in this work of our learned Author, presently: in English Statute law, sole shape exemplified,—the *enactive*. As to this same enactive shape, with an exclusion put upon all the others—nothing, with a view to rulers' purposes, could or can be more convenient. Expression of will this, nothing more: talent necessary, none beyond what is manifested by every child as soon as it can speak. Not so any of the four other sorts of matter. Not to speak of Russian, Italian, and Spanish translations—of the expositive and the rationative, the French work, in which samples of them are exhibited, has been before the public ever since 1802, and another there has just been occasion to bring to view. Grades of functionaries, to either or both of which the *instructional* portion of the matter may be virtually addressed—*subordinates*, with a view to execution and effect; future *legislators*, for the better explanation of the designs, with a view to fulfilment.

Case to which the *exemplificational* more particularly applies, that of an as yet only *proposed* code. Legal systems, from which the matter of it may be derived, two: the *home*, and the aggregate of the most approved *foreign* ones: the *home* system, for the purpose of exhibiting in detail the *disorders* for which the Code is the proposed remedy, and examples of particular arrangements, in themselves of a *beneficial* nature, but in respect of which the system, taken in the aggregate, is chargeable,—on account of the narrowness of the application made of them, and, throughout the remainder of the field, the employment of flagrantly-unapt arrangements, to the exclusion of them: the *foreign*, for the purpose of furnishing, under this other head, in support of what is proposed, the instruction afforded by experience. Note, that this same *exemplificational* matter must not be confounded with the matter composed of those *examples*, which



there may be found occasion to give as an inseparable part of the *enactive*, though they may be considered as belonging also to the *expositive*.

II. Next to the *expositive* matter. Purpose of it, exclusion of the several imperfections, which, on every part of the field, and on this in particular, *discourse* is liable to labour under. These are, on the part of hearers and readers, *nonconception* and *misconception*: on the part of the discourse itself, *unintelligibility*, *obscurity*, *indeterminateness*, *ambiguity*. Against some of them, howsoever well framed the instrument in other respects, appropriate *exposition* will be an indispensable preventive remedy. But, to none of them, without the aid of another remedy, of the purely negative cast, namely, avoidance of *lengthiness*, can it be a sufficient one. As to lengthiness,—it applies, not only to the entire discourse, but also, and with different and still worse effect, to its component parts called *sentences*: and it is in this latter case, that it is in a more particular degree productive of these several imperfections.

Efficient causes of *lengthiness* in sentences,—*surplusage*, and *involvedness*. Of imperfection in both these shapes in *conveyancing* instruments, examples have been seen above.

Causes of imperfection in *all* these shapes, more particularly in that of ambiguity—not only *mis-selection* and *lengthiness* as above, but *miscollocation* likewise; miscollocation, whether applied to words or to phrases. For the avoidance of it, a set of rules will ere long be (it is hoped) at my learned master's service. For the exemplification of imperfection in all manner of shapes in *laws*, matter in rich harvest may be found in the English Statute Book: the most conspicuous repository of every imperfection of which legislative language is susceptible. Towards remediation, a disposition has of late been expressed by those on whom it depends: but, before that is done which the proper end in view requires to be done—before the form in which they are presented is the same with that in use in ordinary discourse, with no other difference than what is necessary to the exclusion of the above-mentioned imperfections—not inconsiderable is the quantity of matter, which, in the form of directive rules, will require to be framed, borne in mind, and for that purpose consigned to black and white.

*Collocation*—is it a light matter? Is it without effect on practice? Read this one line, and judge: "*Parliament*," says the statute (4 Ed. 3, c. 14.) "*shall be holden every year once, and more often if need be.*" Miscollocation *that*. Proper collocation *this*: "*Parliament shall be holden every year once—and, if need be, more often.*" Not that there can be any adequate

assurance, that by this or any other form of words, the would-be despot, in whose face this bridle was afterwards held up, would have held himself bound. But, if he had been—think of the effect that might have been produced in the destiny of England ; and, through England, of the habitable globe. For general application, take this rule. Imbed, as above, your *limitative* clause in that one of two *principal* clauses, to which alone it is designed to be applied : imbed it in that *one*, instead of putting it at the *end* of the *two*, in one of which it is *not* intended to be applied.

Of Exposition-requiring terms,—groupes, which it may be of use to distinguish, these :—

I. Terms of *universal* jurisprudence. Examples : 1. Obligation. 2. Liability. 3. Right. 4. Power. 5. Responsibility. 6. Possession. Original source of exposition to the whole groupe, the idea of *a command*.

II. Terms peculiar to *English-bred* jurisprudence. Examples from the field of property-law : 1. Feoffment. 2. Lien. 3. Trusts. 4. Uses. 5. Springing Uses. 6. Executory Devises. 7. Tenures. 8. Mortmain. In regard to these,—in a Code on the new plan, only in respect of the use made of them in such parts of the existing law as remains unabrogated,—will *exposition* be the proper course. From the enactive part of the new code, these, and all those words which nobody but a lawyer understands, should be carefully excluded :— those alone employed, which, with or without exposition therein given, will be understood,—not by lawyers alone, but by every body else.

III. Terms belonging to the common stock of the language ; but to which, by distortion, lawyers have given an import intelligible to none but themselves. Examples : 1. Applied to the subject-matter of property,—*real*, instead of the appropriate and Rome-bred denomination *immoveable*. 2. *Personal* instead of *movable*. 3. Applied to a conveyance, *voluntary* instead of *gratuitous*. 4. *Servitude*, instead of *partial ownership rights* with the correspondent *obligations*. Wanted, for this idea, a more expressive *single-worded* denomination. *Servitude*, a word unknown to English law : instead of a particular interest in a *thing* immoveable, the idea it presents to a non-lawyer is—the condition of a *person* :—a condition bordering upon slavery. Here I have to turn informer. Smuggled in, by this Reformist of ours, has been this same word *servitude* : introduced, without notice, from continental into our insular language.

IV. Terms belonging to the common stock of the language,—but, by reason of their ambiguity, coupled with frequency of occurrence and importance, with reference to practice,—their

import needing distinction and fixation:—terms, universally intelligible, but by reason of their ambiguousness, not the less needing to be thus fitted for use. Examples: 1. Land. 2. Modifications of place. 3. Divisions of *time*. Sub-examples under this head: 1. *Day*, the portion of the *year*: day in contradistinction to *night*. 2. *Month* lunar, month calendar. 3. *Year* ordinary, year bissextile.

V. Words there are, which, notwithstanding the all-comprehensiveness of their extent, and the need there will be of them in an all-comprehensive Code, need not any express definition, their import being on each occasion rendered sufficiently determinate. To this head belong divers names of *genera generalissima*, besides the jurisprudential terms brought to view above. Examples of these terms: 1. Subject-matters of operation: 2. Operations. 3. Correspondent functions. 4. Operators. 5. Instruments. 6. Judicial and other mandates. 7. States of things. 8. Events. 9. Occurrences. A pretty copious collection of them may be seen brought together and applied, on the occasion of the employment given to them in the above-mentioned Constitutional Code, chap. ix. Ministers collectively. § 7 *Statistic Function*.

In the case of all those more especially influential terms,—an accompaniment, in no small degree beneficial, might be—a list of *synonyms*: synonyms to single words, *equivalents* to short phrases. Not very numerous, comparatively speaking, are perhaps the pairs of words, which, on every possible occasion, may be used interconvertibly, each with as much propriety as the other. But, on each occasion, where any difference has place, the context will suffice, for security, against the endeavour, on the part of litigants, to produce, on the ground of the attached synonym, a wrong interpretation of the word employed in the text. By a characteristic feature of the proposed system—the *ratiocinative* part,—an additional, and hitherto unexampled, security will be afforded.

As to our learned Reformist's Code,—short as it is, candidates in it for the honour of receiving exposition, I have made out a list of, not fewer than 289, belonging to one or other of the above divisions. These, however, in no inconsiderable number, apply not to this alone, but to every other portion of the *Pannomion*—the All-comprehensive Code. Of the whole stock belonging to that aggregate, the number, of course, cannot be small; but the field they belong to is proportionably extensive. The time for each of them to receive its exposition, is the time when the subject it belongs to, is for the first time brought upon the carpet.

Problems for solution: 1. How to distinguish terms needing,



from terms not needing, exposition? 2. How to distinguish terms needing to *receive* exposition from terms fit to be employed in *giving it*? Scarcely, even, for *statement*, can room be found here; for *solution*, none: purpose of the statement, showing that they have not been, and saying that they ought not to be, neglected.

Now as to the *ratiocinative* matter. For arrangements and correspondent enactments, in that part of the field of law to which the work in question more especially applies—standard of aptitude say, the *disappointment preventive*, or *disappointment prevention principle*,—or, more specifically, the unexpected-loss-preventing principle:—a branch this, of the *greatest happiness principle*, with a special denomination adapted to the matter belonging to this part of the field.—Prevent disappointment? Why? *Answer*. From disappointment, as every body knows and feels, springs a pain; magnitude, proportioned to the value set by the individual on the benefit that had been expected. In this pain will be found the only reason, why any subject-matter of ownership should be given to the owner rather than to an usurper: to an usurper, by what denomination soever distinguished: *intruder*, *diffusor*, *embezzler*, *thief*, *robber*, and so on: the only reason why, to interests termed *vested*, more regard should be paid, than to interests not so denominated: the only reason why, for loss,—on any occasion, or from any source,—*indemnity* should be provided. From the non-possession of the millions of watches existing in other pockets,—you, who read this, do you suffer any thing? Not you: and why not? because, not expecting to possess any one of them,—no *pain of disappointment* do you suffer from the non-possession of it. But, if by any hand other than your own—a thief's, an unjust claimant's, or a judge's, it were taken from you—yes; in any one of these cases a sufferer you would be:—quantum of suffering, in a ratio, compounded of the marketable value of the watch with the indigency of your pecuniary circumstances, to the purpose of replacing it, and the relative sensibility of your frame.

Here, then, is an intelligible standard, and the only one. Behold now the effects produced by the hitherto universal want of it. Succedaneums, in number infinite; but not one of them expressive of any thing, besides the ungrounded *sentiment*, or say *mental sensation*, entertained, on the occasion, by him who speaks:—a sentiment of approbation or disapprobation, expressed under the expectation of finding, or producing, the like on the part of hearers, but not suggestive of any *ground* whatever, for the sentiment so entertained.

Examples deduced from this work of our Author's are the

following: "1. Natural Justice, p. 118, 119. 2. Equity, 119. 3. Natural Equity, p. 129. 4. Justice, pp. 161, 221. 5. Natural feeling, p. 203. 6. Harsh law . . . cries feelingly for correction. 7. Our present law violates the first principle of property, p. 220." First principle of property? What then is its name? None does our author himself give to it: none has any person else ever given to it. Not so much as that given in Rome-bred law, in the quasi-Hibernian style, to the species of contract denominated the *undenominated*. Yet, for it to have a name—and highly urgent is its need of one—somebody must stand godfather. Well, then, this is done. As to the thing itself, gratifying it is to me to see my learned master already recognizing it, and applying it. Witness two passages, § 114: "One claimant ought not to *disappoint* another:" p. 148, "The lord's *gain* is far from commensurate to his tenant's *loss*." Compare this with what, by the courtesy of England, is called *reasoning*, in Judge-made law!

The honest and excellent work in French law on this subject, *Le Parfait Notaire*, has been already mentioned. In cutting open the leaves of it, no fewer than fourteen of these gaseous standards caught my eye. A list I took of them has unfortunately been mislaid. In addition to those above mentioned, "Policy, Right Reason, Natural Reason, Law of Nature," &c. &c. were of the number. In many instances, they were even brought together, and stated as conflicting. Now, then, of these non-entities suppose eight on one side, six, and no more, on the other,—then indeed should we have a majority. But suppose fourteen of these *puissances* ranged, seven on one side, seven on the opposite side: if these are to be taken for reasons, the most clear-sighted and decisive judge may avow himself a Lord Eldon without shame.

Now as to our learned Author. Expositive matter he has given us a specimen of in 10 out of 118 articles: namely, in Art. 5, Land; 28, Execution of a Deed; 29, Conveyance; 30, Settlement; 31, Charge; 32, Assignment, 33, Release; 35, Execution of a will; 74, Warranty; 88, Trustee.\*

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\* A few words à propos of this word *trustee*. In every trust there are three characters essentially and indispensably concerned—*trustor*, *trustee*, and *intended benefitee*: distinguishable characters on every occasion these three: though, on some occasions, two of them, as if by Mr. Mathews, are played by the same person: on some occasions, *trustor* being at the same time intended benefitee, or one of a number of intended benefitees; so, on other occasions, *trustee*. But, be this as it may, without an intended benefitee, a trust can no more have existence than without a trustor or a trustee. In the Code, Art. 4, p. 184, mention is indeed made of "*the beneficial owner*" as a person for whom a nominee is supposed to be "in

His mode of exposition is,—in the case of all but Land, Execution of a Deed, Execution of a Will, and Trustee,—definition *per genus et differentiam* : in the case of *Land*, not found referable to any general head : the expression not quite so correct as could have been wished : ground-works and underground-works not found comprised in it. In the case of the remaining three, *paraphrasis* ; of which, elsewhere.

But, with this, or any other incomplete assemblage, we shall not be satisfied : nothing less than an all-comprehensive one does the purpose require. Composed of the two first of these five sorts of matter is his *Code*, distinguished from the rest of the work by being printed in italics : of the ratiocinative, instructional and exemplificational indistinguishably blended, the rest of the work ; *rest, residue and remainder* in the language of learned gentlemen.

At the head of each article, a notice,—affording, by means of one or more of these five denominations, intimation of the nature and design of the articles,—is a document, that has presented itself as having its use, with the exception of the *exemplificational*, which had not as yet occurred to me ; they accordingly exhibit themselves throughout the whole texture of the so often mentioned Constitutional Code.\* Unfortunately, so to order matters, as that under no one of the four first of the above-mentioned five heads, shall any matter be inserted, that can be referable to any or others of them,—has not been found practicable. On the contrary, all the *changes*, of which the number of heads prefixt to the same article is susceptible, will perhaps be found rung upon them.

*Nomenclature*, for a series, or chain, of any length, of the results of successive *divisional operations*, performed upon the same integral subject-matter. Principle of denomination, the *numerical*. Subject-matters, to which, in the character of *integers*,

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trust.” But, this same beneficial owner—no where is he mentioned, as being, like *trustor*, one of the company : and as often as, and in proportion as, a breach of trust has place, the intended benefitee fails of being beneficial owner. Add to this, that, under a trust, a benefit may be intended and received, where there is nothing that it would be easy to fix upon as being *owned*. Exposition, proposed in form of *paraphrasis*—(definition, in the ordinary sense of the word not being obtainable for want of a superior *genus*.—)*Breach of trust has place, when, and so far as, through the fault of, a trustee, a benefit, intended for the intended benefitee, fails of being received.*

\* An extract from it is already in print, composed of four sections, belonging to Ch. ix., intituled *Ministers Collectively*. With the addition of other tracts belonging to the same subject, it forms an 8vo volume, under the title of *Official Aptitude Maximized, Expense Minimized*. The volume will appear in the course of a few weeks.



it is applicable. 1. Our *globe*, or any portion of it. 2. The *three kingdoms* metaphorically so called—the mineral, vegetable and animal. 3. *Weights and measures*, 4. A mass of discourse committed to writing—a *literary work*. In this last instance it is that the idea applies, on the present occasion, to our author's case.

Denominations, *section, bisection, trisection, quadrisection*, and so on. Correspondent visible sign for the eye, the present mark employed for designating a *section*, a double long *ff*—; between its two lines the figure indicative of the number of divisional

$$\text{ff}^2 \quad \text{ff}^3 \quad \text{ff}^4 \quad \text{ff}^5$$

operations, to the results of which it is employed to give expression. By the little swelling produced by this *pregnancy*, no peremptory objection will, it is hoped, be found produced: or, to avoid it, instead of being imbedded between the two *ff*, the numeral may have a single *f*, in a fine stroke drawn through it. By these little arrangements, simple as they are, order might, for the first time, be substituted to the as yet universally existing chaos: and, to an inconveniently inadequate, an adequate stock of denominations substituted. *Part, Book, Chapter, Section, Article, Title*; scarcely beyond this does the list extend; and, as to the order in which they are made to follow one another, the changes are in a manner rung upon it.

Now as to our Author and this his work. Denominations employed, in the order in which they here follow, these: 1. *Part*. 2. *Title*. 3. *Chapter*. 4. *Section*. 5. *No.* At this last stage, his stock of denominations is exhausted: the consequence is,—that for the results of the division made of the aggregate to which he has given the name of *No.* are employed the words firstly, secondly, thirdly, fourthly, fifthly, all in a state of anarchy, without any common head for keeping them in a state of society.

Of all these denominations, *section* (from *seco*, to cut) is the only one completely characteristic. Reason for employing it—its having, as above, an appropriate sign belonging to it. *Article* followed by *No.*, there may be a convenience in employing,—for the *last*, whatsoever may be the number of the intervening divisional operations: these being the two denominations most commonly so employed.

Alike applicable to whatever languages are in use in any nation—this mode of designation might form part and parcel of an *universal language*. In the above-mentioned proposed Constitutional Code, I regret to think it will not be found applied: it had not occurred time enough.

Two other little tasks, at parting, for our *Hercules*.

I. For the instruction of *testators* and their draughtsmen,—a paper, exhibiting a picture of the most commonly-exemplified diversifications, which the state of a person's *family connexions* admits of, with a view to the provisions desirable, and likely to be desired to be made for them, *in a last Will*. For such provisions as require to be made by a *Deed*, this picture is already afforded by the Family Settlement Deed. But in this case the provision goes not beyond a *future contingent* family. Remain, for the objects of the here-proposed provision, all such families as are already in existence.

II. Provision, against the mischief, liable to be done by the *retroactive effects* of the proposed new system:—mischief, of the nature of that, by which the name of an *ex-post-facto* law in English-bred law language (of kin to which is that of *privilegium*, in Ciceronian and Rome-bred law-language) has with so much justice been rendered a name of reproach. Here, if I mistake not, he will feel the convenience of taking the *disappointment-preventing principle* for his guide;—and, doing so, will find in it an adequate defence against all objections. What the occasion seems to call for is—a detailed exposition of the arrangements proposed for the exclusion of mischief from this source. Self-regarding prudence presents itself as joining with benevolence in calling for a careful attention to this subject. On this part of the ground, I see the enemy lying in wait for him. His defences, I fear, are not, as yet, in quite so good a condition as the occasion requires.

One passage exhibits a spectacle I was not prepared for: where our Author, taking a sudden spring, mounting Pegasus, and from *civil*, making an excursion—an uncalled-for excursion—into *constitutional* law. It is in page 206. Libellous the result: “*feelings*,” not the less acute by being democratic, “*hurt*” by it. Revenge is sweet: retaliation cheaper than prosecution.

*Author*.—“The many are a rope of sand.”

*Reviewer*.—Say, are they so in Yankee land?

Answers, like Irish Echo, envious Muse.

Was it, to propitiate those on whom every thing depends for success, that this *tirade* was inserted? If yes, when Sterne's Accusing Angel goes up with the passage, the Recording Angel shall have my consent for dropping his obliterating tear on it.

To preserve myself from the consciousness, as well as the imputation, of injustice,—one last word more. Bringing to view supposed imperfections and deficiencies has all along been the chief occupation of this Review:—imperfections, for correction; deficiencies, for supply. Of the mass of useful information, for

which we are indebted to our philanthropic Reformist,—of the ability, as well as honest zeal, displayed in the exposure of the peccant matter of which the existing system is almost exclusively composed,—of the ingenuity, manifested in so large a proportion of the remedies suggested,—no mention has been made but in the most general terms. But, to have conveyed any thing like an adequate idea of the merits of the work, would have required what, in classical editor's language, is called *a perpetual comment* on it, including a reprint of the greatest part of it.

As to myself, never, but for my learned master, should I have obtained any tolerable insight into this chaos. No probable further prolongation of my life would have sufficed for enabling me to look into it without the *lantern* with which he has furnished me — “*lucerna pedibus meis* :”—to look into it—I mean for the only purpose—the remedial—for which I could have brought myself to look into it.

Hoping that such rare talent, coupled with such still more rare virtue, may not be lost to the world, or wait long, ere it be employed by those in whom alone is the power of giving effect to it,—I conclude.

END OF VOL. VI.











